

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

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Plaintiff,

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vs.

: No. 12-CV-2039 GAG

COMMONWEALTH OF PUERTO RICO, et al.,

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Defendants

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TRANSCRIPT OF PUBLIC HEARING

HELD BEFORE THE HONORABLE CHIEF JUDGE GUSTAVO A. GELPÍ
JOSÉ V. TOLEDO U.S. COURTHOUSE, OLD SAN JUAN, PUERTO RICO
MONDAY, AUGUST 20, 2018, BEGINNING AT 2:17 P.M.

A P P E A R A N C E S:

U.S. DEPARTMENT OF JUSTICE
Civil Rights Division
By Luis E. Saucedo, Esquire
300 N. Los Angeles Street
Federal Building, Suite 7516
Los Angeles, California 90012
For the United States of America

P.R. DEPARTMENT OF JUSTICE
Federal Litigation Division
By Joel Torres Ortiz, Esquire
P.O. Box 9020192
San Juan, Puerto Rico 00902-0192
For the Commonwealth of Puerto Rico

ALSO PRESENT:

Courtroom Deputy Clerk Sonia C. Cardona
Spanish Interpreter Manuel Horta
Monitor Arnaldo Claudio
TCA Alfredo A. Castellanos-Bayouth, Esquire
TCA Antonio R. Bazán-González, Esquire
Police Commissioner Henry Escalera
Gov. Chief Legal Advisor Alfonso Orona-Amilivia
Susana Peñaqarícano, Esquire

1 THE COURTROOM DEPUTY: All rise.

2 (The Court enters the room.)

3 THE COURTROOM DEPUTY: The United States
4 District Court for the District of Puerto Rico is now
5 in session. All those having business before this
6 Court shall draw near, give your attention and you
7 shall be heard. God save the United States of
8 America and this Honorable Court. Honorable Chief
9 Judge Gustavo A. Gelpí presiding.

10 THE COURT: Please be seated. Call the
11 case.

12 THE COURTROOM DEPUTY: United States of
13 America versus the Commonwealth of Puerto Rico set
14 for public hearing. Will the parties please present
15 themselves for the record.

16 MR. SAUCEDO: Good afternoon, Your Honor.
17 Luis Saucedo for the United States.

18 MR. TORRES-ORTÍZ: Joel Torres-Ortiz for the
19 Commonwealth. I would like also to acknowledge the
20 presence of several individuals from the
21 Commonwealth.

22 THE COURT: Please.

23 MR. TORRES-ORTÍZ: Police Commissioner Henry
24 Escalera is present. The Governor's personal
25 representative Alfonso Orona. Director of federal

1 litigation Susana Peñagarícano from the Puerto Rico
2 Department of Justice. Also we have the interim
3 budget director, Ms. Mildred Reyes Pérez. Also, we
4 have auxiliary superintendent for professional
5 responsibility, Colonel José Ramírez-Ramos. And we
6 have the director of the canine division, Alberto
7 Rivera -- Lieutenant Alberto Rivera.

8 THE COURT: Good morning. And I know the
9 monitor and his attorneys are here, as well as
10 members of his team, Arnaldo Claudio. And also I see
11 Attorney Castellanos, Attorney Bazán, Ms. Navedo.
12 And I know the deputy monitor, Marcos Soler and also
13 the investigator José Pujol are here. So we're all
14 set.

15 So, let me begin by making some general
16 comments and observation as to matters. We have
17 about ten items for the agenda. First of all, again,
18 as I had mentioned, I'm trying to hold -- due to my
19 duties as chief judge, it becomes extremely hard for
20 me to go to Ponce or elsewhere to have a public
21 hearing for two days as I wish I could and could hear
22 from everybody. In that respect, and we'll hear from
23 that later on in the agenda, we've been having the
24 town hall meetings where I know Mr. Torres from DOJ,
25 members of the police, and Mr. Saucedo, as well as

1 members from the monitor's office have been
2 participating. And in a sense it doesn't substitute
3 it a hundred percent, I wish I were everywhere, but
4 it's the Court reaching out to the public, the police
5 in different areas. So we will hear from that.

6 The other points -- and, again, I just going
7 to mention general points. We will be discussing
8 this throughout the whole process. But what I will
9 be doing is again periodically -- and it's been
10 usually like a month, month and half I've been
11 holding periodic status conferences. Sometimes we
12 have discussed matters in camera, but I'm -- given
13 that we're about to approach the monitoring phase of
14 the case, I understand that these hearings should be
15 held public.

16 First of all, the capacity-building period
17 ends October of this year, October 7th. There's a
18 total of 237 areas. There's been requests for
19 extension of 34 areas. And the United States
20 Department of Justice was discussing those with the
21 Commonwealth -- I will hear from you in a bit as to
22 that -- but about at least approximately 90 percent
23 of the areas in the Reform agreement, by October 8th
24 monitoring will begin in those areas.

25 Now, the monitor will be presenting by

1 August 30th the methodology for monitoring, as soon
2 as the parties receive it they should provide
3 comments and provide feedback to the Monitor because
4 obviously by mid to late September we need to have
5 that methodology set in place.

6 Now, because this was a capacity-building
7 period of four years, and now we're going to have a
8 monitoring period, the Monitor's office in the next
9 month and a half or two months will undergo a
10 reorganization. It doesn't -- what that means is
11 that the Monitor I've instructed him to meet with the
12 staff and assess what areas each of the staff members
13 will be covering. It is -- I mentioned this in
14 probably two or three of the prior hearings. In
15 addition to the current staff, assistant monitoring
16 staff will be -- in the months to come will be hired
17 because obviously this is going to take a lot of
18 time, a lot of effort, and it's important that the
19 Monitor have all the staff under his office.

20 Now, as I mentioned, not for this fiscal
21 year but for the next fiscal year everybody is
22 informed, expect an increase in budget. I -- for the
23 last -- since the reform process began, the budget
24 recommended originally by U.S. DOJ -- and Mr. Saucedo
25 can correct me if I'm wrong -- I think it was about

1 4.5 million for the Monitor's office. I was able to
2 bring that down in order to save the Commonwealth
3 money to approximately \$1.4 million a year. But the
4 time has come -- and, again, I'm not talking about
5 going up to that number, but there has to be a 20,
6 25 percent increase which I think -- the Commonwealth
7 at least has saved probably about \$3 million for the
8 last five years. So I guess we saved \$15 million but
9 at this point it becomes necessary for the Monitor to
10 have in the next fiscal year some additional budget.

11 Now, once monitoring starts, everybody in
12 his staff will be performing, again, monitoring
13 functions. So, at some point, you know, the badges
14 that the monitors have they all say "Monitor." And
15 that is important because in the past -- and, again,
16 not only in this case, in other case I have another
17 monitoring. It's difficult that if they won't
18 identify themselves as monitors and with the chief
19 monitor, people who don't know about what's going on
20 will not give them the respect or provided
21 information they were required. So everybody will be
22 referred, once the monitoring starts, as a monitor.
23 And, again, Mr. Claudio will be the chief deputy
24 monitor and then obviously you have seven, eight,
25 nine ten monitors who are working under him,

1 providing monitoring work.

2 Now, something that's important, and I just
3 say this in general terms and will be more specific
4 when we touch other points, it's important once that
5 monitoring begins that, according to the methodology,
6 there's a methodology and there's orders of the
7 Court, there's the Agreement, the data that is
8 requested by the Monitor's office, this is not
9 received by the Monitor, and the Monitor doesn't --
10 it's not shared, it's confidential information but it
11 has to be provided on a day-to-day basis when
12 requested.

13 So one of the things that's going to be
14 happening when there's monitoring, and this is just
15 an example, but assume the Monitor on a given week
16 says, for example, On Tuesday, next Tuesday at
17 8:00 a.m., members of my office -- and obviously this
18 can be unannounced because that's what monitoring is
19 about. But members of the Monitor's office can show
20 up individually at the 13 police regions or at
21 different police stations throughout the island and
22 request the same exact information. And when that
23 occurs that has to be provided on the spot along with
24 all the orders of the Court, the directives of the
25 Court, because that's how monitoring goes.

1 So obviously there's going to be time for
2 that, to prepare for that, but I'm just giving
3 everybody a heads-up, that's what the monitoring
4 phase is. And if the monitoring phase is complied
5 with it will terminate a schedule which I would
6 definitely like that to happen.

7 Now, I don't want to sound too drastic but
8 once monitoring starts if there's noncompliance,
9 there's remedies; and remedies can range anywhere
10 from sanctions, economic or noneconomic sanctions,
11 contempt, and receivership. And, again, that is the
12 most drastic -- one of the most drastic sanctions.
13 And a receivership -- I'm not saying the entire
14 police force has to be on receivership, but let's
15 assume there's an office within the reform -- let's
16 assume that, for example, the canine office. Let's
17 assume the information provided by the monitoring is
18 that it's not operating the way it is, there could be
19 a receiver for that office; there could be a receiver
20 for one or more offices. And, again, the Monitor is
21 not the receiver. If there's a receiver, the Monitor
22 monitors the receiver.

23 But, again, I hope -- and just because I'm
24 forewarning this doesn't mean it's going to happen, I
25 hope it does not happen; but I ask obviously for full

1 cooperation so we don't have to reach this extent.
2 And obviously the most drastic sanction would be a
3 receivership over the entire police bureau -- which,
4 again, don't put me in that position, and I hope it's
5 not going to happen. But I need to alert everybody
6 because of the importance of this issue.

7 Now, those are some general comments that I
8 have. We're going to begin with -- I know there's a
9 canine out there somewhere so perhaps if we can begin
10 with the canine division.

11 Yes?

12 (The Court confers with the Monitor.)

13 THE COURT: Let me go to budget first and
14 then we'll talk about the canine division. So, let
15 me make some general comments. What the procedure is
16 going to be throughout the afternoon, I'll hear first
17 from Mr. Saucedo then I'll hear from the
18 Commonwealth. If the Monitor has any comments also I
19 will hear from him as to that item. And then at the
20 end of the day I know the Commissioner's here,
21 Mr. Orona is here, so I will allow him to make other
22 general comments in the bigger framework.

23 So as to -- let me begin as to the budget
24 and I'll make a general observation -- I'll make two
25 general observations and then I'll hear from

1 everybody. Now, I do note that, again, this is -- I
2 have information that's been provided for the budget
3 for the years 2014, 2015, 2016, -17, and -18, for the
4 years this case has been ongoing. Now, what is
5 concerning to the Court is the fact that
6 approximately there's \$20 million a year that are
7 provided for the Reform aside from -- again, this has
8 nothing to do with the Monitor's office, but from the
9 Reform for the Police of Puerto Rico. And looking
10 longitudinally at all those years, there are years
11 when most of the budget has been used but, for
12 example, in 2017 there's almost like \$15 million that
13 were not used throughout that year. And right now
14 we're in -- that's fiscal year 2017/18. We're in the
15 new fiscal year 2018/19 so that's not startling.

16 There's another item I'd like to ask also.
17 In 2014 I see there's almost \$7 million in travel.
18 Again, I know there was a different administration
19 but I'd like to ask if anybody has an idea why was so
20 much spent in travel. What kind of travel? I just
21 can't fathom spending that amount of money. The
22 other issue --

23 MR. TORRES-ORTÍZ: Your Honor, if I may.

24 THE COURT: Yes.

25 MR. TORRES-ORTÍZ: If I may just correct

1 that. I just talked with the police director from
2 the reform office and they explain me that the table
3 that was given has an error because it's supposed to
4 say -- in Spanish it's gasto de viaje and misceláneo.
5 So it would be miscellaneous also. So there are
6 other costs other than just travel.

7 THE COURT: Okay, but I would like to know
8 what's miscellaneous, what's other, what's travel.
9 Because, for example, 2014 if we put travel and
10 miscellaneous, \$6,659,306.17. That's a lot. 2015,
11 \$1,720,900.70. 2016, no travel, no expenditures.
12 2017, \$14,000; 2018 so far it's been 32,000. But,
13 again, those numbers -- at least those two first
14 years 2014 -- 15 are alarming. And, again, I'd like
15 to know -- this was not during this administration,
16 but I'd like to know what was that.

17 The other thing I think is important for
18 purposes of the budget, and I'll just make a general
19 comment, when -- I know there's been issues
20 throughout the entire island, the government, with
21 PROMESA but specifically Section 204/1, this is a
22 case that there's an agreement between the parties
23 and cases that there's an agreement and payments have
24 to be made or disbursed such as this, the fiscal
25 board cannot touch upon those.

1 In the hierarchy, you know -- and, again, I
2 know this is probably an appeal but even assuming the
3 fiscal board is correct that there's the three
4 branches of the constitutional government in Puerto
5 Rico -- you have the executive, legislative, and
6 judicial, and because of PROMESA the fiscal board has
7 been put on top for fiscal matters, if
8 ultimately that is -- I know Judge Swain basically
9 made that ruling -- again, that can be appealed, it
10 can be taken to the Supreme Court if necessary -- but
11 even assuming that ruling is sustained, the PROMESA
12 board -- you know, this court is a federal court, the
13 PROMESA board is a Commonwealth entity created by
14 federal law, but it's a Commonwealth entity so the
15 fiscal board must respect and has to oblige to any
16 rulings pertaining to budget in the police reform.

17 The fiscal board cannot say, Oh, it's 20
18 million per year, we're going to give it 13 million.
19 That cannot be touched. So I just want to make that
20 very clear because the budget in this case is outside
21 of the scope of PROMESA. It is the government's
22 budget, but that is -- the PROMESA law specifically
23 looks into that.

24 So, having said that, what I'd like to hear
25 regarding budget first is to hear from Mr. Saucedo

1 then I'll hear from Mr. Torres.

2 MR. SAUCEDO: Good afternoon, Your Honor.

3 With respect to budget, the parties and the TCA had a
4 meetings last week at police headquarters where these
5 figures were presented including the spent and
6 unspent funds during the capacity-building period
7 which began with the appointment of TCA in June of
8 2014.

9 We share the Court's concern about some of
10 these funds being unspent. Last year we had a bit of
11 a crises where the money that had been allocated from
12 the asset forfeiture program were frozen and that led
13 to a number of requests for materials, for training,
14 for other critical needs of the police bureau to have
15 gone unmet for a period of time. Luckily, we did
16 have a breakthrough ultimately, but I note that it
17 coincided with the 2017 year where a large portion of
18 the budget was unspent. That is approximately
19 \$15 million.

20 The TCA office and the members of his team
21 are every month visiting precincts all over the
22 island and they're noting serious deficiencies in the
23 lack of radios, the lack of other critical equipment;
24 and so it's of concern that this money was gone and
25 spent given the number of needs that Puerto Rico has

1 to meet.

2 Ultimately, Your Honor, the
3 capacity-building period was included as part of this
4 case to put the police in the best possible position
5 to successfully implement the Agreement. So there
6 have been many investments made. Our understanding
7 is that a lot of the more costly information systems
8 are still in development, being implemented; but they
9 were started during the capacity-building period and
10 those are moving along.

11 Your Honor, as you also noted, PROMESA at
12 Section 204 and then again later in Section 304 the
13 law itself provides that the fiscal control board
14 cannot impede the actions taken by the Commonwealth
15 to comply with the consent decree. So one has to ask
16 sort of what was happening within the Commonwealth
17 for this to have happened given that PROMESA was not
18 an impediment itself to the funds that were being
19 allocated.

20 I also -- I do want to note, Your Honor,
21 that both the certified budget and I believe also the
22 other budgets that were approved this fiscal year
23 include the \$20 million. And we know that --

24 THE COURT: So for this year's budget again
25 there's no issue with the fiscal board. Last year or

1 this year there have not been any issues.

2 MR. SAUCEDO: That's correct, Your Honor.

3 That's correct. And we would ask, Your Honor, that
4 in the self reports that the Commonwealth provides to
5 this Court -- the next one is due September 24th --
6 that those reports include the same information that
7 we're receiving today, the number of -- the amount of
8 money allocated and the amount of money spent;
9 because we do believe that it's very important, given
10 the challenges facing the island, that there be
11 greater transparency in the use of these funds. And
12 so --

13 THE COURT: We're beginning in October the
14 monitoring phase. What I'm going to ask is that on
15 the 1st of each month the Commonwealth inform the
16 parties -- and, again, this doesn't have to be filed
17 with the Court -- and actually I would like to see it
18 also on a monthly basis. But what I'll do is give it
19 informally to the parties, I'm going to ask the
20 Monitor to provide me a copy just so I can see it,
21 but it should be provided the 1st of each month.
22 That's my directive as of now on. And I think it's
23 important because that way either the U.S. DOJ or the
24 Commonwealth -- the Commonwealth or the TCA, anybody
25 can say, What's this item or why haven't we spent

1 this amount or why have we spent more? And I think
2 it helps everybody so...

3 MR. SAUCEDO: Your Honor, I have nothing
4 further on the budget.

5 THE COURT: Okay, let me just double-check
6 if I have any questions for you and, if not, I'll go
7 to the Commonwealth. Let me then hear -- and I want
8 to recognize -- I don't know if Mr. Torres noted that
9 she was here but Clementina Vega, the director of the
10 police reform office, is here as well.

11 Now, Mr. Torres, my question then I'll hear
12 from you in regards to everything that I've mentioned
13 and Mr. Saucedo, but my question is if -- I
14 understand, for example, if last year there was
15 budget that was unused, approximately 15 million or a
16 little over that, is that budget still available to
17 the Reform or where is that budget? And if it's not
18 available, was it spent or what happened? That's my
19 big question. Sorry to put you in that spot but...

20 MR. TORRES-ORTÍZ: Yes, Your Honor. Well,
21 because of Law 26 of the Commonwealth, that money
22 that was not used for the Commonwealth -- I mean, for
23 the police reform, it was sent back to the Department
24 of Treasury of Puerto Rico. So, it is not available
25 at this moment to be used in the police reform.

1 But --

2 THE COURT: So that money what was not used
3 for any past fiscal year, Treasury has that or it's
4 not earmarked for the reform anymore?

5 MR. TORRES-ORTÍZ: Yes, Your Honor. And
6 that's due to local Law 26 of the Commonwealth.

7 THE COURT: So what you're saying is that
8 when local Law 26 was enacted due to the, I guess,
9 bureaucratic, administrative, all those other
10 changes, those moneys were not used to further the
11 Reform?

12 MR. TORRES-ORTÍZ: They were not used, Your
13 Honor. But I think it's important to note -- and I
14 would like to allow the budget director to give more
15 information on the budget across the board on the
16 whole year. But I think it is important to know
17 that, you know, in these past years \$80 million have
18 been used in the police reform; and that's an
19 incredible amount of money that could not have been
20 used if this police reform wasn't in place. So, you
21 know, the Commonwealth has to thank Mr. Saucedo, the
22 United States, and also the Court and TCA because
23 without this police reform we wouldn't be able to use
24 and invest in the police \$80 million.

25 We need to have better use of the

1 \$20 million that are being assigned each year. I
2 think it's important that, you know, we recognize
3 that that year was a transition administration year
4 and, you know, that brings, you know, its
5 difficulties. And we want to take measures so that
6 that does not happen again.

7 And we have to agree that the order that you
8 just informed the Court and we will comply with that
9 order. And first month we will talk how we're going
10 to comply and inform, you know, the money that is
11 being used for the police reform.

12 THE COURT: For example, compare if you add
13 2014, 2015, 2016, and 2017 that's \$80 million; 20
14 million for each year of the Reform. And almost
15 every year I would say at least -- I have the numbers
16 here. In 2014, \$985,973.27 were not used, so almost
17 19 million were used.

18 In 2015, 17,331,049.78 were used, so
19 approximately 2.23 million were not used. In 2016,
20 \$19,382,549.08 were used, so that left 617,450.92 not
21 used. But then we go to 2017, it's \$4,853,822.13
22 used, but that leaves 15,146,177.87.

23 Now, if we look at those four years
24 globally, out of \$80 million that were provided by
25 the legislative assembly to the Reform that means

1 that almost 20 million, so a fourth were not used for
2 the reform. And, again, last year it was the bill
3 bulk, it was 50 million, but in the other years -- so
4 it's money that's been available there that the
5 legislative hasn't used.

6 Now, if we go to 2018 and the fiscal year
7 for 2018 began in July, so we have one month and
8 we're halfway through August. Out of those 20
9 million, \$6,633,419.16 has been used. Now, I don't
10 know if this is a red flag or not, but it would
11 appear to me that we have 12 months, it should be
12 more than that. Or, again, there may be other months
13 where there's other things coming, but that's how we
14 stand now. And I'm not raising a red flag, but if
15 for every other month that is the amount spent, there
16 is going to be probably about 13, 14 million unused.

17 So, that is the Court's concern. And,
18 again, I think that's why the money has to be tracked
19 so it's used. U.S. DOJ and the Monitor can always
20 recommend, You're not using this, or it can ask --
21 again, I think this is important because we see how
22 the moneys are spent in attorneys, medical services,
23 professional services, purchases, materials,
24 equipment.

25 Something I -- again, when you look to

1 equipment, this year out of one month in the fiscal
2 year almost 5 million --

3 MR. ORONA-AMILIVIA: Your Honor, if I may
4 interject, to be clear on the table, that's the
5 fiscal year. So when it says 2017 it's fiscal year
6 2016-2017.

7 THE COURT: Yes, that ends in 2017.

8 MR. ORONA-AMILIVIA: So when we're talking
9 about 2018 it's the past fiscal year, 2017-2018. So
10 the \$19.3 million that's for the past fiscal year.

11 THE COURT: Yes, for 2018 almost the whole
12 budget was used.

13 MR. ORONA-AMILIVIA: Yes, exactly.

14 THE COURT: And now we're beginning with the
15 new budget. This doesn't -- again, that was my
16 mistake.

17 MR. SAUCEDO: Your Honor, one other point of
18 clarification and that is that the Commonwealth
19 included fiscal year 2013-14, so in fact it's
20 five years, not four years.

21 THE COURT: It's five years.

22 MR. SAUCEDO: That's correct. So there's
23 \$100 million that were assigned for Reform.

24 THE COURT: Out of which I believe
25 20-something million were not used in that five-year

1 period.

2 MR. SAUCEDO: That's correct, Your Honor.

3 THE COURT: So it would be probably about a
4 fourth of...

5 Okay. So, again, I think if -- I have no
6 other issues. I don't know if the Monitor has
7 anything he'd like to mention about this. I think
8 with my directives for the first of each month that
9 the Monitor and U.S. DOJ be provided this breakdown
10 everybody will be in a better position. Do you
11 agree, Mr. Claudio?

12 TCA ARNALDO CLAUDIO: Yes, Your Honor, I
13 agree. The only thing that I would add to that is
14 the fact that when there's a distribution of money
15 within the Reform, it needs to be very clear in the
16 aspects of what is being used. To use "travel" and
17 "miscellaneous" is not going to cut it; they have to
18 be very specific.

19 THE COURT: So they should be separated.
20 And this fiscal year is beginning, but I think it's
21 important. And, again, the Monitor or U.S. DOJ may
22 have more specific questions so whenever that's asked
23 that should be provided because it could be what kind
24 of travel -- was this training? Was this other type
25 of travel? So, that's Issue 1.

1 Let's move on to the second matter on the
2 agenda and that is the canine division. Let me note,
3 as my introductory remarks that I believe it was
4 towards the end of 2016 along with Mr. Claudio -- and
5 Attorney Saucedo arrived after finding it a little
6 late, but he did make it there because it's almost
7 impossible to find the canine unit. But we went
8 there. There had been many issues in the years
9 before 2016 of the canine unit, the handler, the
10 kennel master had to be recertified, again it was
11 sent. And there were a lot of issues.

12 The kennel master I believe in 2016 or late
13 2015 went to training in Indiana -- I think it was in
14 Indiana somewhere, he got recertified. And then
15 other additional folks in the division were certified
16 as well. A lot of money was invested in that
17 division, and around the end of 2016 it was operating
18 like at a 90 percent capacity. It was very
19 impressive compared to what it had before.

20 Now, the information that I have is
21 notwithstanding that investment and the funds for
22 that division the operation is somewhere around
23 50 percent or less. I think these canines -- I don't
24 think, I know from my perspective as a judge, they're
25 very useful. I've had several cases where obviously

1 they come and because of sniffs and their work --
2 usually here we have drugs but they also find
3 explosives. I know at the airport there are canines.
4 These are rough statistics, but you invest in 60,000
5 in training a dog that dog gets millions and millions
6 of dollars in illegal drugs, so it is a benefit to
7 everybody in the Commonwealth.

8 The other problem is, if the dogs are not
9 certified, they're not handled correctly, they're not
10 operating well, the problem is that every case that
11 results from the canine sniffs, if nobody's
12 certified, the government can seize the drugs but the
13 perpetrators -- you know, the prosecutors may not be
14 able to prove the case. So I think that's why that
15 division is so important.

16 I looked into the equestrian unit which is
17 very close by. If it's horses and dogs, you know,
18 they're all animals and they need to be taken care
19 of, but the dogs are extremely important for searches
20 and seizures and other matters that the police need
21 them. So I'd like to hear from Mr. Saucedo and then
22 I'll hear from Mr. Torres. And I believe we have a
23 visiting canine here so you can bring him in or her.
24 So Mr. Saucedo.

25 MR. SAUCEDO: Yes, Your Honor. The canine

1 unit is an important part of this case because
2 canines are used as a form of less lethal force in
3 apprehending suspects and so it's very important that
4 the equipment is available, that the dogs are fully
5 trained, and that the handlers are duly certified.
6 And, Your Honor, as you noted, there were great
7 improvements that were made during the course of the
8 capacity-building period including having I believe
9 the first certified kennel master in the history of
10 the police bureau. And so --

11 THE COURT: That is Lieutenant Rivera.

12 MR. SAUCEDO: That's correct, Your Honor.

13 THE COURT: Let me add, I think it's
14 important to know that the fact that there's been ups
15 and downs in no way should be attributed to the
16 leadership or the work of Lieutenant Rivera; it's
17 things that have happened perhaps to the budget and
18 other reasons. So, again, I just want to make that
19 very clear.

20 MR. SAUCEDO: Yes, Your Honor. In addition
21 to the use of force, the canines are also an
22 important tool for the police in conducting searches
23 and seizures; and for that reason the training and
24 resources and oversight of this unit are very
25 important.

1 We have met with the canine unit in the past
2 and have obtained information. The TCA has also
3 provided information about the canine unit. The -- I
4 think what we've observed, like the police academy
5 for example, where great investments were made and
6 slowly some of the pressure comes off and the
7 performance level drops. I think it's important that
8 for this to be a sustainable reform that the
9 attention and the level of support that these units
10 receives needs to be ongoing.

11 So we are looking forward to I believe a
12 presentation today, but my understanding is that some
13 of the training and equipment needs of this unit have
14 been brought up consistently by the police bureau.
15 And so if there are any deficiencies on that end, it
16 appears to be that above the police bureau and other
17 levels is where the impediments have laid, Your
18 Honor. And it's important that the entire Government
19 of Puerto Rico support all of the efforts of the
20 police bureau, including those of the canine unit, to
21 make sure that they're successful. They're a key
22 part of ensuring that the use of force is used
23 appropriately and that searches and seizures are
24 within the law.

25 THE COURT: Let me ask, I believe there was

1 an issue at one point, there is some pending money
2 federal money for the canines, but I don't know if
3 it's management or budget or at the treasury
4 department it's been stuck there for a while. Are
5 you aware of that?

6 MR. SAUCEDO: Your Honor, if you're
7 referring to the asset forfeiture money --

8 THE COURT: Yes.

9 MR. SAUCEDO: -- that would come from the
10 DOJ treasury department.

11 THE COURT: Okay, I think that's the money
12 that I think at some point was going to be used for
13 canines as well, correct?

14 MR. SAUCEDO: Yes, Your Honor. We
15 understand that a number of requests were made by the
16 canine unit through the Reform office for equipment
17 and for canines that were going to be lost if they
18 weren't recertified. And our understanding is that
19 as a result of some miscoding of the account that
20 those funds were frozen. Our asset forfeiture and
21 money laundering section that oversees the equitable
22 sharing program was here last year --

23 THE COURT: But they were frozen federally.

24 MR. SAUCEDO: No, Your Honor, they were --

25 THE COURT: Or were they frozen locally?

1 MR. SAUCEDO: They were frozen locally. And
2 in fact --

3 THE COURT: That's the issue, that they were
4 provided by the Federal Government and then it was
5 frozen locally. And then the problem is if it's not
6 used, it must go back.

7 MR. SAUCEDO: Yes, Your Honor. And in fact
8 the asset forfeiture section was here to find out why
9 this money wasn't being spent because this money is
10 specifically allocated for law enforcement purposes;
11 and if it's not being used for that purpose, the
12 Department of Justice and treasury can pull that
13 money back.

14 THE COURT: And as of now it's still in the
15 Commonwealth as far as you know or it's been pulled
16 back?

17 MR. SAUCEDO: Those funds have not been
18 pulled back. My understanding is that the coding
19 issues with the account were addressed. The
20 Commonwealth may have more additional information.
21 But that money is available still for the
22 Commonwealth.

23 THE COURT: Okay, let me hear from
24 Mr. Torres then in regards to the canine.

25 MR. TORRES-ORTÍZ: Yes, Your Honor. We're

1 going to have a presentation from Lieutenant Alberto
2 Rivera-Ortíz, but first I would like to address what
3 we were just speaking briefly. The money from the
4 asset forfeiture was -- you know, it was an issue
5 that was attended to. That money was used to buy
6 bulletproof vests for the whole PRPD force. And
7 prospectively we have taken measures not to have that
8 issue happen again. So, hopefully, you know, it's
9 something that has remained in the past.

10 THE COURT: Well, whatever were frozen here
11 were used for purposes --

12 MR. TORRES-ORTÍZ: For purposes of the
13 police reform.

14 THE COURT: When I look at the budget, they
15 don't appear in this budget because they're not part
16 of the Puerto Rico legislative budget, so that's why
17 we don't see those here.

18 MR. TORRES-ORTÍZ: That's correct, Your
19 Honor.

20 THE COURT: Now, for purposes of the
21 October 1st and any further monthly reports, please
22 always have an annex. Again, there may be federal
23 funds that are provided that benefit the Reform. You
24 can simply inform the Monitor what they are, they've
25 been used obviously, because that's important for us

1 to know. And, again, that's something -- for
2 example, if those funds were used in fiscal year 2018
3 and obviously it may have benefitted the Reform. For
4 example, if the budget used was 19,336,000,000,
5 et cetera, et cetera, may be in those -- you know, I
6 think those assets come to like 15 or 20 million. Am
7 I correct? It was several millions, I can't
8 remember.

9 MR. TORRES-ORTÍZ: I don't have that
10 information.

11 THE COURT: Mr. Saucedo, you don't remember
12 how much it was?

13 MR. SAUCEDO: Yes, Your Honor. Initially it
14 was around that amount and that was because the
15 Federal Government had frozen the account when the
16 Reform process started, and those funds are
17 replenished continuously throughout the year.

18 THE COURT: Okay, but I think it's important
19 to know that because, again, out of those -- let's
20 say it's 20 million federal funds, let's say seven,
21 eight, went to the Reform. We have no idea. And,
22 again, if it's something that they were used, it's
23 important for the Monitor to know as well. And they
24 can be used for many other things. So just keep that
25 in mind.

1 Let me then -- if Lieutenant Rivera-Ortiz is
2 here we should then hear him. There you are. So we
3 have the presentation here.

4 THE INTERPRETER: Can we come over here?

5 THE COURT: Yes, you may approach.

6 Okay, so please proceed. And we have the
7 interpreter, so we're doing everything for the
8 record. I note I've been provided a report. What I
9 would like is obviously for the agent to summarize
10 the report. And you may be seated. Thank you.

11 Welcome.

12 (Mr. Horta interprets.)

13 LIEUTENANT RIVERA-ORTÍZ: Good afternoon.

14 THE COURT: So please proceed.

15 LIEUTENANT RIVERA-ORTÍZ: Your Honor. We
16 are here present with the intent of bringing
17 up-to-date the canine -- the status of the canine
18 unit. We are going to be brief in our presentation.
19 As far as personnel is concerned we are six
20 sergeants, one female; 85 agents, 11 females.

21 At the present time, all specialties of the
22 canine unit are in function: Cadavers, explosives,
23 drugs, weapons, and patrolling. The trainings,
24 Reform as well as canine division, are up-to-date.
25 At the present time we have 62 teams operating.

1 THE COURT: And when you say 62, what does
2 each number comprise? Is it a canine and officer or
3 two officers?

4 LIEUTENANT RIVERA-ORTÍZ: When we refer to a
5 team, we're talking about the canine agent, the dog,
6 and the vehicle.

7 In June, we traveled to Vohne Liche Academy
8 in Indianapolis to be recertified.

9 THE COURT: And for the record, it's spelled
10 V-o-h-n-e and another word L-i-c-h-e Kennels in
11 Indiana. Vohne Liche Kennels Academy in Indiana.

12 And you were recertified, correct?

13 LIEUTENANT RIVERA-ORTÍZ: Yes, sir. Myself
14 and three agents as instructors.

15 THE COURT: Okay, continue.

16 LIEUTENANT RIVERA-ORTÍZ: The agents are
17 complying with the 26 reform regulations. On June
18 the 29th, all canine personnel was enrolled in the
19 virtual training courses.

20 All agents submitted to physical fit exams
21 annually complying with the public policy. This year
22 four did not approve and three could not be submitted
23 to the test because of high blood pressure. In
24 compliance with the regulations of the police, these
25 agents are referred to the specialized division, to

1 the evaluations committee of specialized units.

2 Recently we received 96 leashes at 30 feet
3 each; 96 at six feet, 96 muzzles, and 96 tracking
4 collars.

5 THE COURT: And *bozal de canasta*, the
6 muzzles, that's what's put over the mouth.

7 LIEUTENANT RIVERA-ORTÍZ: Yes. That is a
8 large muzzle and it allows the dog to continue its
9 work in the location where there's many people.

10 And lastly we were requested to update
11 requisitions and purchases. We have requisites in
12 spending at the technology divisions. We submitted
13 training equipment to the Reform office. Through our
14 requisition we petitioned that five dogs would be
15 purchased.

16 THE COURT: Was it five or ten? Because I
17 believe here it says ten.

18 LIEUTENANT RIVERA-ORTÍZ: The ten were
19 postponed.

20 THE COURT: Okay.

21 LIEUTENANT RIVERA-ORTÍZ: And now, lastly,
22 at the present time the canine division, the 116
23 policy division, it is being reviewed. And to start
24 with we are going to get going with the
25 digitalization of the files and records. This will

1 facilitate delivering documents to the courts.

2 And we petitioned the Reform office to
3 establish a retention for agents that finish the
4 handler course, for them to work at least for
5 two years, a two-year period at the division. This
6 is because of the cost of the training.

7 THE COURT: Okay. Thank you. Let me ask
8 you a question, I was there obviously before the
9 hurricane and the facilities have been -- when I went
10 there and it was probably late 2016 with Monitor
11 Claudio, I note that there was a part with obstacles
12 where the dogs would be trained. There was also a
13 training room very close by across the little street.
14 My question is, after Hurricane Maria are those in
15 operation or were there sustained damages? Was it
16 affected in any way?

17 LIEUTENANT RIVERA-ORTÍZ: Yes, it was
18 affected.

19 THE COURT: And how was it after the
20 hurricane? Is there still work to be done?

21 LIEUTENANT RIVERA-ORTÍZ: Obviously with the
22 effort of agents who work there at the present time
23 the division is one hundred percent operational.

24 THE COURT: Let and me note, and correct me
25 if I'm wrong, I recall that when I went there you had

1 informed me that basically that training room was
2 basically put up by you and the other agents working
3 the division, and that you painted it, you worked on
4 the woodwork and other matters. So it wasn't -- the
5 refurbishing of that building was really at no cost
6 or at minimal cost to the police; am I correct?

7 LIEUTENANT RIVERA-ORTÍZ: Yes. And after
8 the hurricane we did the same thing. As a matter of
9 fact, the FEMA personnel visited us.

10 THE COURT: Okay, my last comment. Again,
11 you may not be able to fully answer this but
12 something I think particularly for the commissioner I
13 think it's important and for the Monitor, you're
14 mentioning that you're contemplating or at least
15 there's a request to digitalize the files as to the
16 dogs, their updates as to the agents and everything.
17 I think that's a brilliant idea.

18 My question is, where is that? Is it in
19 limbo? Is it in the process? If you don't know and
20 you submitted the request that obviously is not for
21 you to answer. But the request has been submitted I
22 believe, correct?

23 LIEUTENANT RIVERA-ORTÍZ: We already have
24 three of our evaluations digitalized by the Reform
25 office.

1 THE COURT: Okay. Well, I don't have any
2 questions. If you could just stay there in the event
3 Mr. Saucedo or Mr. Torres or the Monitor has one or
4 two brief questions and you could answer for the
5 benefit of everybody. So let me hear from
6 Mr. Saucedo. I heard from you, but you might have
7 additional --

8 MR. SAUCEDO: No, Your Honor, just a quick
9 observation that one of the concerns that we had
10 heard about a few months ago was the lack of
11 equipment when the canine units supports the SWAT
12 teams. And the SWAT teams of course have additional
13 protective gear and other equipment. And to the
14 extent that the canine unit was providing support
15 during call-outs for the SWAT, it was important that
16 the canine unit also have the same type of protective
17 gear. And so looking at the report that was just
18 submitted, Your Honor, we're pleased to hear that the
19 request has been made and that funds were allocated
20 for that purpose. That was an important need that
21 had been identified by the police previously.

22 THE COURT: Mr. Torres, anything you would
23 like to add?

24 MR. TORRES-ORTÍZ: I would just like to add,
25 Your Honor, that all the recommendations that

1 Lieutenant Rivera has mentioned today they were
2 implemented in the policy when it was revised by the
3 police reform.

4 THE COURT: And what he mentioned about
5 digitalization, that's in the works and, as he
6 informed, a lot has been digitalized and I assume the
7 goal is to have everything digitalized for quick
8 reference and use.

9 MR. TORRES-ORTÍZ: That's correct, Your
10 Honor.

11 THE COURT: So, it's similar to a KRONOS
12 type of thing. Okay, Mr. Claudio anything you would
13 like to add?

14 TCA ARNALDO CLAUDIO: Yes, sir. As you
15 know, I don't give too much accolades, but I have to
16 admit that since I met Lieutenant Rivera I have found
17 a professional who is dedicated, a well-focused and
18 strategic person that has just tried to do the best
19 for the canine unit in the Puerto Rico Police Bureau.
20 My only request is continue to support Lieutenant
21 Rivera.

22 LIEUTENANT RIVERA-ORTÍZ: Thank you.

23 TCA ARNALDO CLAUDIO: That support will
24 continue to take the canine unit to higher levels of
25 readiness which is important in this process. So I

1 thank Lieutenant Rivera because every time we go
2 there it's completely open and has been one of the
3 brightest stars as we move forward in the Reform
4 process, so my hats off to Lieutenant Rivera.

5 LIEUTENANT RIVERA-ORTÍZ: Thank you.

6 THE COURT: And what I will be doing
7 hopefully maybe mid to late November or if not early
8 December I will be hopefully visiting the canine
9 unit, since the equestrian unit is walking distance I
10 will visit the horses as well. But, again, thank you
11 very much and you're excused.

12 LIEUTENANT RIVERA-ORTÍZ: Okay, thank you.

13 THE COURT: The next item is the report -
14 the update on the SARP. That's the *Superintendencia*
15 *Auxiliar en Responsabilidad Profesional*, Auxiliary
16 Superintendency for Professional Responsibility.
17 Just some general comments. Dr. Alex del Carmen on
18 the Monitor's team, who is a statistician, did
19 review -- over the last month or two months has been
20 coming to Puerto Rico, maybe a little longer, for
21 purposes of reviewing the complaints -- those that
22 are resolved, those that have not been resolved.

23 There are a lot of challenges. The
24 report -- it's not a final report -- but that he
25 submitted to the Monitor has been provided to the

1 parties. I believe Deputy Marcos Soler will be
2 addressing that and I'll hear then from the parties.
3 There are concerns, a lot of paper trail. There are
4 some complaints that are well over the 90-day period,
5 others dismissed. And, again, statistically again
6 not everything is wrong but it's -- this is a system
7 that has been inherited by this administration from
8 the past administration to the past administration to
9 the past administration that needs to be improved
10 because the way it's been carried out the numbers do
11 not necessarily add up.

12 So let me hear if Marcos Soler, the chief
13 deputy monitor, wishes to brief everybody on this and
14 then I'll hear from the parties.

15 DEPUTY TCA MARCOS SOLER: Your Honor, Marcos
16 Soler, Deputy TCA. We started to focus on SARP for a
17 while ago. Certainly this was one of the key
18 elements of our last report, our last sixth-month
19 report. We highlighted some of the deficiencies and
20 since then we have had Dr. Del Carmen continue our
21 work, our field trips, visits, to figure out exactly
22 what are the main problems going on with that
23 specific unit.

24 Dr. Del Carmen has identified primarily
25 three areas of concern and I bring it here to the

1 Court. You have mentioned some of them. One is a
2 high level of workload amongst officers which are the
3 results primarily of two things going on at the same
4 time. One, fewer personnel assigned to SARP and at
5 the same time increase in cases some of the cases
6 coming. Certainly that's something that we are
7 looking into. We are looked specifically at some
8 locations such as Rio Grande, et cetera, and we
9 certainly have identified both problems going on:
10 Fewer officers, again, and higher workloads as a
11 result of more cases.

12 Number two, there are significant training
13 challenges among those officers who are working
14 there. Certainly that has an impact on certain areas
15 in the ability the officers have to do the jobs.
16 Primarily what we have identified as key problems, a
17 key area of concern, are the fact that officers are
18 having problems articulating what is the criteria to
19 designate complaints and allocate complaints amongst
20 areas.

21 So this impacts obviously referrals between
22 jurisdictions. This also impacts the ability of the
23 investigators to make key findings and determine key
24 concepts and what are the key concepts that are going
25 to apply to each category. That leads often to

1 misclassification and additional allegations. It
2 might lead to a disproportionate situation. Often,
3 for instance, result of disproportionate
4 precautionary measures. And finally it leads overall
5 a concern about the integrity of the investigation
6 and violations of policy. For all these reasons we
7 certainly think it's imperative not only that we
8 attend the sheer number of people working at SARP but
9 also, Your Honor, identify what are these current
10 challenges in terms of training and deal with them
11 effectively.

12 And finally, Your Honor, the other part or
13 the other main concern that we find --

14 THE COURT: Before you go into the other
15 part, can you explain what you mean by the integrity
16 of the investigation.

17 DEPUTY TCA MARCOS SOLER: Yes. What I mean,
18 Your Honor, by integrity of the investigation is that
19 when you have had an officer, for instance, that
20 determines that of multiple allegations that you
21 might have in a complaint, they decide only to define
22 the complaint by one allegation. Then there are
23 multiple allegations in the complaint that are not
24 addressed properly. The complaint might be
25 mischaracterized and, therefore, you cannot complete

1 a full investigation of all the allegations in the
2 complaint. The officer -- the SARP officer might be
3 only focusing on one specific allegation that he or
4 she considers the most important, ignoring other
5 things and other issues that might be also relevant.
6 That is what I define by the integrity of the
7 allegation.

8 THE COURT: Would an example be, for
9 example, Officer Bazán has a complaint filed but it
10 has -- well, there's ten complaints and one is
11 excessive use of force, the other is use of equipment
12 for personal use, and there's ten allegations.
13 They're investigated and let's assume the use of
14 force is dismissed, the others -- one or two are
15 dismissed, and then there's findings for one or two
16 but then it's characterized as a use of force
17 complaint exclusively instead of all the areas.
18 That's what you're saying?

19 DEPUTY TCA MARCOS SOLER: Correct. And that
20 is one area of concern because the question is, when
21 you only identify one complaint in that way we are
22 not sure exactly the other parts of the complaint,
23 all the other allegations are investigated. To what
24 degree the officer who was -- the investigator who
25 was conducting the investigation was understanding

1 were the other concerns. And most importantly, Your
2 Honor, is the interrelationship between those
3 allegations.

4 THE COURT: And let me say this, and this is
5 just again a general observation but just from what
6 you're telling me, and Mr. Torres and
7 Ms. Peñagarícano are well-aware of this, but what can
8 happen is if everything is not categorized, for
9 example, if the complaint is dismissed on failure to
10 report or personal use of equipment and it goes down
11 on that, when the supervisors are reviewing those
12 files they say, Oh, this is not to alert anything.
13 But there could have been a finding perhaps for use
14 of force.

15 And the problem is, at some point it could
16 be under Section 1983 of the civil rights law a
17 failure to train, failure to supervise. There's
18 issues that, again, the supervisors should have been
19 made aware but because of the way SARP is carried out
20 that they don't find out but they're sued three or
21 four or five years later and they could end up here
22 in court. And, again, I've had cases, I've dismissed
23 them --

24 DEPUTY TCA MARCOS SOLER: Correct.

25 THE COURT: -- on appeal I've been reversed.

1 So that's what this -- you know, making sure all the
2 methodology, all the investigation, all the
3 particular items, everything can be seen from the
4 record. That's why the clarity is so important. And
5 this is something -- it's important for the Reform,
6 but I think in the long run for liability and for
7 purposes of any possible losses or anything, this is
8 important for the police to know. And, again, if
9 somebody has been using excessive use of force for
10 years the commissioner can -- or, you know, maybe not
11 for years but once or twice, the commissioner can
12 take actions and unarm the person and his liability
13 or the supervisor's liability will be minimized.

14 DEPUTY TCA MARCOS SOLER: That's correct.
15 And it's not just a question of liability. There's
16 not a specific complaint allegation that has been
17 investigated, but certainly a much larger systematic
18 impact since there might be situations in which a
19 continuous downgrading of allegations for an officer
20 on a continuous norm certainly a full investigation
21 of an allegation might lead to an ability to see a
22 trend emerging on a particular officer.

23 THE COURT: That's exactly what -- you hit
24 the nail on the coffin. There's a trend emerging
25 and, again, particularly you could have a new officer

1 and you see there's a trend -- you know, there may be
2 allegations for excessive use of force, SARP
3 determines it wasn't excessive but there's something
4 out there, a red flag, that officer can be trained
5 and that won't happen again. Whereas if it's
6 miscategorized you have no idea of knowing that and
7 then it may be too late.

8 DEPUTY TCA MARCOS SOLER: Correct, Your
9 Honor. And that leads to concern No. 3. After
10 Dr. Alex Del Carmen has found and shared with the
11 team that there are also obviously a delay in the
12 implementation of the technology associated with
13 the -- you know, with maintaining the complaint --
14 the internal affairs complaints and the proper
15 filing --

16 THE COURT: And that's the paper trail.

17 DEPUTY TCA MARCOS SOLER: And that's on the
18 paper trail. And when you have the situations and
19 when your system is not up and running you might have
20 that situation in which down the line we might be
21 missing a lot of information that could be crucial
22 particularly with implementation of the early
23 intervention systems which are a crucial part of the
24 Agreement.

25 THE COURT: Let me ask, I did review his

1 preliminary report and something that comes up with
2 the paper trail is obviously if it's a low-ranking
3 officer there's a -- again, it's still paper trail
4 but there's more of a paper trail. When it's a
5 higher-ranking police officer not much happens
6 because he's not -- you know, the levels of
7 supervision are lower than somebody lower down. And
8 that is the problem. If it's paper trail that can be
9 lost, misplaced, or, you know, dismissed for X, Y, Z
10 reasons whereas when there's no paper trail it's
11 digitalized it's easier -- and there's a methodology
12 for everything. That's what the Reform looks at,
13 that everybody -- everything be resolved and there be
14 no red flags, Oh, supervisors are not getting
15 sanctions because on occasions they are. But that's
16 the situation.

17 DEPUTY TCA MARCOS SOLER: That's correct,
18 Your Honor. There is a concern about impartiality
19 and integrity of the investigation. And also there's
20 a disconnect to the issue of time limits. And we
21 have mentioned, part of the reasons why you don't
22 want investigations to keep going on forever is you
23 want to make sure that all officers, that all
24 allegations are investigated in a timely fashion so
25 you don't have a propensity of a system to basically,

1 okay, that allegation is open for a year, down the
2 line people forget about the allegations and forget
3 about everything and no remedy can be taken.

4 THE COURT: Let me ask to the extent you
5 know, and I'll hear from the parties as to this,
6 because at some point I remember Superintendent
7 Caldero had mentioned it. Again, I could be wrong,
8 but I remember there was a 90-day period and he said
9 we're trying to get everything out in 45 days. Am I
10 correct, Mr. Claudio, that was pertaining to SARP?

11 TCA ARNALDO CLAUDIO: That was correct.
12 That was the policy.

13 THE COURT: That was an internal goal of
14 that was --

15 TCA ARNALDO CLAUDIO: [Inaudible] Colonel
16 Rodríguez.

17 THE COURT: Okay. Thank you very much,
18 Mr. Soler.

19 Then let me hear from Mr. Saucedo and then
20 I'll hear from Mr. Torres.

21 MR. SAUCEDO: Yes, Your Honor. The internal
22 affairs or what is commonly referred to as internal
23 affairs in Puerto Rico it's the responsibility --
24 professional responsibility office. This is an area
25 that the United States intends to focus on in the

1 next few months. We know that --

2 THE COURT: As part of the monitoring
3 theory.

4 MR. SAUCEDO: That's correct, Your Honor.

5 SARP essentially acts like a police of the police,
6 it's sort of their internal watchdog. They conduct
7 both administrative and criminal investigations of
8 officers. And it's very important that they're
9 reformed just as much as the other parts of this --
10 the other units. We appreciate the efforts of
11 Dr. Del Carmen to review documents and actually look
12 at the process and determine whether it's working or
13 not and what needs are ongoing.

14 I do want to point out a few things, Your
15 Honor. At the end of the capacity-building period we
16 do have a SARP policy, and in that time the police
17 bureau was able to update the regulation on the
18 handling of administrative complaints; but there are
19 some key steps that are still needed, and they are
20 the subject of some of the extension requests that
21 will be requested by the Commonwealth. They include
22 training for SARP and the office of legal affairs.

23 This is the first time, as far as we
24 understand, Your Honor, where SARP will have its own
25 training on the handling of administrative

1 investigations and so this is critical. Our
2 understanding is that the projection is to have those
3 staff trained by July 1, 2019. And so of course
4 having the policies just one step of this you've got
5 to train everybody and then you need to ensure that
6 people are following the training.

7 On that note, Your Honor, another issue that
8 we identified, as well as the TCA is the reassignment
9 of some cases to the special investigations bureau.
10 And this was something that the TCA mentioned in his
11 report, six-month report 7. Of course if you have
12 the policy and the regulations you need to be
13 implementing them and following them. They were set
14 up for a reason.

15 There's a another issue which is the
16 implementation of a record management system.
17 Oftentimes we hear from the community that they
18 submit or they file a complaint but they don't hear
19 anything back, and so the development of this record
20 management system is important for a number of
21 reasons. Number one, it goes directly to the
22 integrity issue and the paper trail that's generated.
23 There's also, you know, time stamping of who goes
24 into the systems, to identify who has access to them
25 and so they are an important integrity check. But

1 they also serve as a reminder to let the community
2 know the status of their complaint. And it's
3 important that if the Commonwealth has made a
4 commitment to complete these investigations within
5 much shorter periods of time that they have the
6 system to be able to do that.

7 The Commonwealth is also digitizing the
8 mounds and mounds of paper that are at SARP. They've
9 asked for a time until October of 2019 on that, so
10 there's a lot of work that's ongoing with this unit
11 but it's -- you know, the internal affairs
12 assignments are amongst the most challenging within
13 the police departments. The system issues are also
14 getting in the way of the lack of training, the lack
15 of equipment. And we certainly are going to be
16 paying close attention to the implementation of these
17 paragraphs because they're critical to the process.

18 THE COURT: Okay. Let me also note that one
19 of the issues, and, again, I think this may have an
20 explanation, but when Dr. Del Carmen was performing
21 the statistics -- of course one of the issues is in
22 order to have the statistics there has to be a
23 methodology. And, again, when it's a paper trial
24 it's very hard to keep a methodology; when it's all
25 digitalized it's very simple and you can pull out the

1 numbers.

2 But the other thing is one of the things
3 that is -- one of the comments is that sometimes
4 there's not that much explanation. For example, you
5 can have officers who are sanctioned or not
6 sanctioned, their cases are closed favorably or
7 unfavorably for whatever reasons, but sometimes when
8 you go to the higher-ups in the chain of command they
9 can be dismissed but there's like no literally
10 explanation. Again, I realize that somebody up there
11 probably may have instead of 20 supervisors, or
12 whatever number of layers up, it's harder to report,
13 but that is something that is important.

14 Again, let's assume a colonel is referred to
15 SARP, his file should contain almost everything that
16 a lieutenant or a cadet has at SARP. And that's one
17 of the things that there's a dichotomy that the
18 higher up the person is when the cases are closed
19 there's not much to follow up. And, again, there may
20 be a very reasonable explanation for that. I don't
21 know if you have anything to add about that.

22 MR. SAUCEDO: Yes, Your Honor, there's a
23 transparency, I believe, that's needed here.

24 THE COURT: That's --

25 MR. SAUCEDO: Yes, Your Honor, there's a

1 level of transparency that's needed to make sure
2 that -- transparency and independence. I think one
3 of the key features of having a healthy internal
4 affairs office is that it be able to operate in as
5 independent a manner as possible. The Agreement does
6 require, Your Honor, that whenever the commissioner
7 does not accept or another supervisor does not accept
8 the recommendation of an investigator that they
9 document that declination. In other words, if an
10 investigator determines that there's sufficient
11 evidence to sustain a complaint and that then
12 requires some sort of discipline, that if in the
13 commissioner then reverses that or doesn't accept
14 that recommendation or rejects it --

15 THE COURT: Or rejects it.

16 MR. SAUCEDO: Yes, Your Honor. That's an
17 important part of the paper trail that you were
18 referring to. The fact that the commissioner as part
19 of this process, or whoever is ultimately the person
20 who reviews these investigations, needs to be --
21 needs to account for the final determination that's
22 taken by the agency.

23 THE COURT: And, again, if that is not the
24 case, he runs into the danger of supervisory
25 liability. Again, obviously not the scope of this

1 case. But let me say -- and, again, the flipside is
2 also correct. Let's assume SARP recommends a
3 sanction and the commissioner understands that that
4 sanction should not be issued, that has to be also
5 explained or vice versa both sides, because the SARP
6 could recommend or not recommend a commissioner as
7 the ultimate authority; but that's -- in either case
8 if he overturns the decision of the SARP that's what
9 has to be on the record. And it has to be explained
10 by a memo or something else.

11 MR. SAUCEDO: Yes, Your Honor. It's
12 paragraph 190 of the Agreement. This in no way takes
13 away any of the authority that the commissioner has
14 in disciplining members of the police force; however,
15 whenever there is that either a modification or
16 rejecting a recommendation that was made by SARP that
17 there be a paper trail created hopefully it will be a
18 digital paper trail that's part of this RMS system
19 that's being developed, but the idea is that you
20 would have documentation of when those -- whenever
21 dispositions are rejected or modified.

22 THE COURT: Okay, thank you.

23 Mr. Torres, on behalf of the Commonwealth,
24 any matters you wish to address.

25 MR. TORRES-ORTÍZ: Yes, Your Honor. You

1 know, there has been a lot of progress made in SARP.
2 Basically policy has been put in place. And, you
3 know, it will be reviewed and all the assessment that
4 the TCA and the U.S. DOJ have made it will be taken
5 part of the policy review but at the same time there
6 are challenges and we need to address them. And I
7 would like to have the director of the auxiliary
8 superintendent of professional responsibility explain
9 to the Court more information.

10 THE COURT: And something I would, either
11 from you or from him, I'd like to hear is, as was
12 informed I believe it could have been by Mr. Saucedo
13 or it could've been by Deputy TCA Marcos Soler, for
14 some of these investigations personnel from the
15 special investigations bureau -- NIE in Spanish for
16 the acronym -- has participated. The NIE all the
17 agents were originally from the Puerto Rico Justice
18 Department and they did -- of course they
19 investigated, but it was usually for criminal
20 investigations. It was criminal investigations or
21 sometimes they served subpoenas or other matters that
22 they helped the Attorney General in Puerto Rico.

23 Now, if they're going to be participating in
24 the SARP, they need to get trained because their
25 training is very, very -- it's kind of like if I'm an

1 FBI agent and all of a sudden I decide to become an
2 immigration agent I need to be -- there's a lot of
3 things in common but I need to be trained for
4 immigration. So that is just a concern that having
5 that mentioned but either if you or somebody else or
6 the commissioner might have information about the NIE
7 agents who might be participating at some point --
8 and, again, if they're trained and it's within -- you
9 know, as long as the reform is being kept, it's
10 really not up to the Court to say how are you doing
11 it. The thing is that it be done correctly. So
12 that's an observation I had.

13 MR. TORRES-ORTÍZ: Your Honor, there are no
14 complaints at NIE that are administrative; we only
15 have criminal complaints that NIE is handling.

16 THE COURT: Okay, so anything from the SARP
17 that's referred to NIE that would be a criminal
18 matter.

19 MR. TORRES-ORTÍZ: Yes, Your Honor.

20 THE COURT: So then let me hear from -- who
21 is here to --

22 MR. TORRES-ORTÍZ: Colonel José
23 Ramírez-Ramos.

24 (Mr. Horta interprets.)

25 THE COURT: Okay, so please come up.

1 Good afternoon, Colonel. Welcome back.

2 Long time no see.

3 COLONEL RAMÍREZ-RAMOS: Good afternoon, Your
4 Honor.

5 THE COURT: Please proceed with your
6 presentation. Obviously I have everything here in
7 writing, it's been submitted, so if you could just
8 make a general summary. Please go ahead.

9 COLONEL RAMÍREZ-RAMOS: I'm going to try to
10 be as brief as possible. We are going to be talking
11 about the new policies and about the revision of the
12 existing policies according to the requirements of
13 the sustainable reform. We start with general order
14 Chapter 100-114. That is the general order, that
15 governs what is the superintendency for the
16 professional responsibility. That was revised on
17 July 31st of this year with the purpose of having the
18 administrative investigations done in an equitable
19 and impartial manner.

20 We also have general order Chapter 100-113
21 and it creates the division that investigates the use
22 of force, incidents with the use of force. This unit
23 was necessary to be created to investigate the
24 incidents of the use of extreme force that point to
25 an empirical criminal behavior by a member of the

1 Police of Puerto Rico. This division is located on
2 the first floor of the general police headquarters
3 and it is open so that anyone who is interested in
4 knowing how that office functions can go by there to
5 see how that office functions always maintaining
6 confidentiality as to certain cases.

7 Also, regulations 90-01 was created. This
8 regulation leads us to have supervisors investigate
9 and take nonpunitive corrective measures. This
10 prevents that on many occasions the situations that
11 occur with citizens are resolved at the work unit
12 level and some immediate measures are taken when this
13 type of complaint comes in.

14 THE COURT: And let me ask what those
15 immediate disciplinary corrective measures could be.
16 For example, somebody can be sent to a training.
17 Somebody can be given an orientation, can be given
18 just a verbal admonition. I assume that kind,
19 correct?

20 COLONEL RAMÍREZ-RAMOS: That is correct.

21 THE COURT: Okay, continue.

22 COLONEL RAMÍREZ-RAMOS: Regulation 90-01
23 establishes some two minor values and those are the
24 ones that will be worked on by the supervisor at the
25 work area of his immediate area. The general order

1 that goes hand to hand with this regulation is
2 pending approval.

3 Regulation 64-03 it is a regulation that
4 deals with the detection of controlled substances in
5 officers and officials of the Police of Puerto Rico.
6 I have to inform that as of the 1st of January up to
7 the 31st of July 2,528 tests have been performed.
8 These do not include steroids testing since those are
9 not regulated. We are working with the legal
10 advisors of the Reform office, as well as the local
11 justice department to submit a bill to amend Act 78
12 which is the one that regulates the problem of
13 detection of controlled substances in the public
14 sector.

15 Now, once this legislature is approved it
16 would take us to comply with the Requirement 200
17 where the tests for prohibited or regulated
18 substances is established. We continue --

19 THE COURT: Sorry to interrupt. Let me ask
20 you a question. Currently, for example, if officers
21 are using steroid, and there can be ranging from A to
22 Z, unless the law is amended you can -- and, again,
23 there are steroid that, as you mentioned in your
24 presentation, could affect adversely how the officer
25 functions in his duties.

1 So, that's what the police -- and I guess
2 this is something that obviously the commissioner and
3 obviously the secretary of public safety are working
4 on. So if the law is amended that would cover also
5 that, that would be the intent, correct?

6 COLONEL RAMÍREZ-RAMOS: Correct, that is the
7 purpose.

8 THE COURT: And let me ask, I'm not going to
9 ask, let me say in general terms I think, and I know
10 the commissioner is here, I think that is something
11 that is advisable. Obviously I don't lobby on behalf
12 of the agency, but I think it's very important
13 because there's steroids and there's steroid. And
14 you might need a destroyed to heal and it's
15 medicated, but you can also obtain steroids elsewhere
16 and we all know the adverse effects. And sometimes
17 maybe either bodybuilders and people working out, but
18 something it's the officers. Arnold Schwarzenegger
19 in his prime looks like a Boy Scout but that could
20 have adverse effects.

21 Let me also ask, I don't see it here.
22 Again, there could be an officer who is taking, for
23 example, Xanax to sleep. And the problem is not can
24 he take the Xanax but the problem is let's assume
25 that officer quarterly is prescribed Xanax but

1 instead of taking one pill a night he's taking one
2 throughout the day. That's still an abuse of
3 controlled substances even though technically he's
4 not -- he has them for his own medical use. Would
5 that regulation or that be something that needs to be
6 amended as well?

7 COLONEL RAMÍREZ-RAMOS: Well, right now the
8 way that the tests for controlled substances works is
9 that when you go to forensic sciences to do the
10 corresponding tests the person informs whether he or
11 she is using any type of medication subsequently.
12 This is analyzed with the reviewing physician
13 whenever that person makes the pertinent
14 recommendation as to whether that person is engaged
15 in some type of illegal use.

16 THE COURT: Okay. And let me ask, again you
17 may be able to answer or you may not and it's not
18 something that we can always -- but locally medical
19 marijuana is not illegal in Puerto Rico, but it's
20 still illegal at the federal level. So my question
21 is, if an officer for X, Y, Z reason or any other
22 member of the police force -- again, I understand
23 that the regulation also applies to other officials
24 who may not be police officers. Is it contemplated
25 that some police officers or members of the police or

1 civilians may be using medical marijuana, or is that
2 being tested or is that an issue?

3 COLONEL RAMÍREZ-RAMOS: At the present time
4 that has not happened but we have talked about it,
5 with the office that performs the test in these
6 cases. And if there was a positive result we would
7 then have to discuss. You're talking about
8 medicated.

9 THE COURT: Yes, because if it's --

10 COLONEL RAMÍREZ-RAMOS: We would then have
11 to talk about the steps that are going to be
12 followed.

13 THE COURT: So what I take it is up to now
14 it has not been an issue up to now, correct?

15 COLONEL RAMÍREZ-RAMOS: Up to now it has not
16 been an issue.

17 THE COURT: And the commissioner is here,
18 Mr. Orona. That's just food for thought, and it's
19 something I guess from the TCA and U.S. DOJ's
20 positions they can also comment. Let me say, the
21 only reason I'm asking this is there's been an issue
22 not at the federal government because federal agents
23 it's not recognized; but there's states that -- and I
24 read about this the other day -- even county or state
25 judges using medical marijuana and then they're

1 sentencing in criminal cases. So that's one of the
2 things that when it comes to law enforcement it is a
3 bit awkward more so when -- at least at the federal
4 level it's not approved. So let's move ahead.

5 COLONEL RAMÍREZ-RAMOS: Now continuing with
6 my presentation, I'm going to be talking to you about
7 the EIS policy. That is the early intervention
8 system. This is related to an application for
9 complaint control where as of the beginning of the
10 complaint we're going to be having an allegations
11 classification system so we can then determine in an
12 easier manner and quicker the term established that
13 is going to be assigned to each complaint.

14 This application would have a system of
15 classification of allegations which is going to give
16 us besides data, as well as the status of the
17 complaint that are received and processed by SARP.
18 Your Honor, what this is going to do is it's going to
19 allow us to have precise statistics that are
20 immediate and a control of the complaint from the
21 very beginning. It is going to allow us to detect
22 some behavior from a member of the force that needs
23 some type of retraining or employee assistance.

24 Also, we're in the process of digitalizing
25 the administrative investigations files. We start

1 with badges 37,000 going down to badges 23,000.

2 THE COURT: And I assume that's because
3 again Badge 37,000 those are the more recent
4 additions to the police form, the older ones have
5 been longer, so you're doing it from the newer
6 members to the older members, correct?

7 COLONEL RAMÍREZ-RAMOS: Correct.

8 THE COURT: And let me also ask, that the
9 benefit of this method that is being implemented is
10 that every time something is filed it's filed
11 electronically, it's not something that if you have
12 the paper somebody can disagree, Let me throw that
13 out, put it there. Once it's in the system it's in
14 the system, correct?

15 COLONEL RAMÍREZ-RAMOS: That is correct.

16 THE COURT: And everybody, including from
17 officer who started yesterday up to the officer with
18 the highest rank and longest tenure, this system
19 applies equally to everybody.

20 COLONEL RAMÍREZ-RAMOS: Everyone, that's
21 correct.

22 THE COURT: Another issue, this has been
23 raised over the years as part of the Reform, the
24 issue of transparency, this in a sense it's my
25 impression that from the public's perception and in

1 practice this depoliticizes the system. For example,
2 somebody -- let's assume somebody is in the SARP
3 system and there's a complaint number and
4 everything's digitalized. And let's assume it
5 happens in October 2020, what would happen in the
6 past, and I'm talking about a paper trail, somebody
7 could say, Well, I have this here but there's going
8 to be a change in the administration and my new
9 friends are going to help me out; let's get rid of
10 this, let's get rid of that, nobody can follow the
11 paper trail.

12 But this system, regardless if there's a
13 change in the administration or there's a new
14 commissioner or new supervisor, everything remains in
15 the system forever, correct?

16 COLONEL RAMÍREZ-RAMOS: That is so.

17 THE COURT: So if there's a change in
18 administration, for example, whoever comes in cannot
19 say, Well, let's take this out, throw it out.
20 Whoever makes any changes would have to document why
21 that decision was made or not made or overturned but
22 it would all be in the system, correct?

23 COLONEL RAMÍREZ-RAMOS: That is so, yes.

24 And there would be a record of whomever did a change
25 in the system or changed something in the system.

1 THE COURT: Okay. As to this I have no
2 further questions. I've reviewed the documents you
3 gave me. I want to move on a little bit. I also
4 note that you provided -- this is the updated manual
5 of the investigator for SARP. Let me ask,
6 Mr. Claudio, you've seen this before?

7 TCA ARNALDO CLAUDIO: I have.

8 THE COURT: And Mr. Saucedo. I don't have
9 any questions as to that, I'll take a look later.
10 And I do note that -- yeah, that's been mentioned in
11 your report. Obviously the report also mentioned
12 that SARP is represented in the 13 police areas. And
13 I don't -- I know the trainings, again like the
14 canine division, they're ongoing, and there's
15 trainings -- everybody's been trained. There's
16 training -- almost everybody's been trained and
17 they're in the process. So I don't know if you have
18 any concluding thoughts. I know you have some
19 pictures here, so if you could tell me what those
20 photos are. I believe that's the new system for
21 filing those rolling cabinets, correct?

22 COLONEL RAMÍREZ-RAMOS: That is correct.
23 We're in the final phase by now. We should be ending
24 this week in putting up the files.

25 THE COURT: And eventually there should be

1 no more files once everything's digitalized, correct?

2 COLONEL RAMÍREZ-RAMOS: Well, that is the
3 purpose -- right now that's going to be useful to us
4 as a backup. The purpose is that at the end
5 everything's digitalized and there will be no need
6 for files as such.

7 THE COURT: Let me -- just one last
8 question. In any of the SARP documents and did any
9 of the regions that were not digitalized suffer any
10 damages or were ruined or destroyed or wiped out
11 because of the hurricanes, or that did not happen
12 regarding SARP investigations?

13 COLONEL RAMÍREZ-RAMOS: Correct. In terms
14 of the damages caused by the hurricanes, all command
15 headquarters were affected. But as far as receiving
16 complaints that was never paralyzed, that never was
17 stopped.

18 THE COURT: Okay, thank you very much. Let
19 me ask if Mr. Torres or Mr. Saucedo have any final
20 thoughts or questions. If not, we'll move to the
21 next are. I see no showing of hands.

22 MR. TORRES-ORTÍZ: No questions.

23 MR. SAUCEDO: Your Honor.

24 THE COURT: Mr. Saucedo.

25 MR. SAUCEDO: Yes, Your Honor. I appreciate

1 the information that the colonel provided. At first
2 I thought he may have misspoken when he talked about
3 the Early Intervention System, EIS, but in looking
4 through the submission, Your Honor, the written
5 submission, it's clear to me that there's -- there
6 continues to be a misunderstanding of what the Early
7 Intervention System is.

8 Certainly, Your Honor, SARP needs a record
9 management system, an electronic way to track every
10 single complaint and to know the status of each of
11 those complaints, but that is not what EIS is, the
12 early identification system, Your Honor. EIS is not
13 a tool primarily used by SARP, it is a tool for
14 managers, for supervisors to supervise officers.

15 The purpose of having an EIS is not to wait
16 until someone submits a complaint or there's an
17 incident or an allegation of a civil rights
18 violation. The entire purpose of having an EIS is to
19 try and detect at an early stage whether that officer
20 is having any problems. And the solution is not
21 submitting the case to SARP for discipline. The
22 case -- the situation that we have here is the
23 situation where we want to be able to intervene with
24 an officer early on before there is a civil rights
25 violation or some other problem.

1 If you look at EIS, Your Honor, EIS is in
2 the supervision section of the Agreement, it is not
3 in the SARP section of the Agreement. The reason
4 this is important and the reason this is so is EIS
5 includes information from SARP. And so you want
6 the -- so there's sensitive information in the system
7 and you want the unit that's in charge of the most
8 sensitive information to oversee the program. But if
9 you -- Your Honor, it's Paragraph 147. "The police
10 bureau shall develop, implement, and maintain an
11 early identification system to support the effective
12 supervision and management of PRPB officers and
13 employees including the identification of and
14 response to problematic behaviors as early as
15 possible."

16 We want to avoid situations where there are
17 civil rights violations. And there may be indicators
18 along the way. For example, Your Honor, you raised
19 the example of someone who may be taking more Xanax
20 than not. We don't want to wait for a complaint to
21 come in because that officer committed some incident,
22 used excessively force or had some other civil rights
23 issue. If this supervisor is paying close attention,
24 you're going to notice behavior changes. Perhaps
25 it's an usual number of absences.

1 Your Honor, Paragraph 148 outlines all of
2 the data that needs to go into EIS so that
3 supervisors are aware of the behavior of their
4 officers. Your Honor, good supervisors are already
5 doing this -- they're aware, they're paying close
6 attention, and if they see a sign of trouble, they're
7 going to ask and approach the officer if they need
8 some assistance.

9 The idea behind the EIS is to make all our
10 supervisors good supervisors, that they're all aware
11 of basic information about whether officers are
12 showing up on time, whether they're having an unusual
13 number of uses of force, and it's a way to prompt
14 that supervisor to ask questions. It's not punitive,
15 it is not punishment; it is a preventative tool.

16 THE COURT: So it's, as we say in Spanish,
17 *No confundan la gimnasia con la magnesia.* Don't
18 confuse -- in English how would you translate that?
19 Don't mix apples with oranges. But I think what
20 you're saying is that anything that's EIS should be
21 implemented outside of SARP. Again, there may be
22 matters that are EIS that end up in SARP, but they
23 should be independent of one another. EIS should not
24 be mixed up in SARP.

25 MR. SAUCEDO: No, Your Honor, EIS is

1 overseen by SARP because it includes SARP information
2 that's amongst the most sensitive the agency has. So
3 it only makes sense that SARP -- and most internal
4 affairs divisions oversee the implementation of early
5 intervention, but the use is intended for
6 supervisors. This information is a value to
7 supervisors. SARP is going to have its own record
8 management system to keep track of complaints when
9 they come in, when they're due. This mechanism --

10 THE COURT: So you need not have a complaint
11 in order to activate EIS.

12 MR. SAUCEDO: That's correct, Your Honor.

13 THE COURT: Or something could happen at
14 SARP that EIS is also warranted.

15 MR. SAUCEDO: Yes, Your Honor. It could be
16 excessive absences, it could be minor infractions
17 that are accumulating. Your Honor, this system is
18 intending to identify the outliers. Right? If there
19 are certain averages and uses of force or other types
20 of civilian complaints, this system is set up to
21 identify and to alert the police bureau of people who
22 are acting outside the norm, and it's a prompt to the
23 supervisor to take some action.

24 Again, the purpose of EIS is to prevent
25 misconduct, it's not intended as a record management

1 system. It includes it but, it's not the totality of
2 what that system is. And the reason I raise this,
3 Your Honor, is because we've been making these
4 comments over and over to get the policy and the
5 manual right that are being written for this
6 purpose -- and that's another reason why it's
7 important to keep a close eye on this. This is among
8 the most difficult systems to build.

9 The Los Angeles Police Department that went
10 through a reform process just like this, they have
11 10,000 police officers, their EIS was among the last
12 thing to come in compliance because it's so complex.
13 It takes information from human resources, from SARP,
14 from a bunch of -- from the academy, because you're
15 also looking at training. And so what this system
16 does is it pools all that together and it tells
17 supervisors who the outliers are of the people
18 they're supervising. It's not a record management
19 system, it's a supervision tool, Your Honor.

20 THE COURT: As you mentioned, EIS can
21 involve matters in SARP and it could also involved,
22 as you mentioned, human resources matters.

23 MR. SAUCEDO: Yes, Your Honor. The --

24 THE COURT: So if you have an officer who on
25 three occasions is new and he just tells his

1 co-workers, his co-officers, "Oye, mamita, Hey baby,"
2 or something, and the supervisor or the agent says,
3 I've heard you say that three times, that's an early
4 indication that that could lead, if not taken care
5 of, to eventual harassment claims or conduct. And
6 that's what EIS tries to look for.

7 MR. SAUCEDO: Yes, Your Honor, it's not just
8 to prevent a misconduct situation where there's a
9 civil rights violation; this is also intended to help
10 save that officer's career. And if -- yes, Your
11 Honor. I mean, just looking at the cases where
12 officers have been arrested for civil rights
13 violations -- I'm talking historically here -- in
14 cases where the police bureau has sustained
15 complaints of civil rights violations, if you look
16 back and you try to identify whether there were
17 indicators early on, that's what we're trying to
18 build. We're trying to prevent misconduct through
19 this system, Your Honor.

20 THE COURT: Let me ask -- again, this is a
21 little unrelated, but it's similar to EIS and has to
22 do with supervisors, and I forget the term but --
23 when some of us have been at the conferences in the
24 University of Texas A&M, the Monitor from New
25 Orleans -- and I forgot the acronym. This is the

1 reporting system where all officers agree to report
2 each other. For example, if Mr. Bazán and
3 Castellanos are police officers and Mr. Bazán sees
4 something that could lead to EIS for a supervisor, he
5 will go up to him or he will go to the supervisor to
6 help everybody out. What's the acronym for that? I
7 forget.

8 TCA ARNALDO CLAUDIO: I'm going to look at
9 it right now.

10 THE COURT: Well, we'll figure it out.
11 Well, that is something -- it's not exactly what's
12 contemplated here, this would be outside, but I'm
13 just mentioning that because it is something that's a
14 new trend in police reforms. Okay, so thank you very
15 much.

16 Mr. Torres, if you have anything else to
17 add.

18 MR. TORRES-ORTÍZ: Yes, Your Honor.

19 THE COURT: Yes, Mr. Torres.

20 MR. TORRES-ORTÍZ: Yes. We have taken note
21 of the comments that Attorney Saucedo has just made.
22 We're going to take those comments and review the
23 policy and attend to the matter.

24 THE COURT: And, again, he does have what I
25 think is something. You should discuss, discuss with

1 DOJ. I thank very much for the presentation. And,
2 again, I'm happy that there's a new manual in place,
3 things are moving along but, again, we will continue.

4 And Mr. Claudio when you figure out what
5 that program is called just share it with everybody.

6 TCA ARNALDO CLAUDIO: The one that the
7 lawyer from Washington, D.C.

8 THE COURT: Yeah, who is the Monitor but I
9 forget the name.

10 Okay, then thank you very much, you're
11 excused.

12 Okay, then there's two items, 4 and 5. I
13 want Mr. Claudio -- that should be brief updates on
14 the survey at Paragraph 241 and the assessment for
15 the May 1 I believe protest or assessment. So brief
16 me on those very briefly. I'll take comments from
17 the parties and then I'm going take a ten-minute
18 recess and then go with the other items. I think
19 we've covered the big bulk on what was going to take
20 more time, but let me hear from you.

21 TCA ARNALDO CLAUDIO: Yes, sir. Concerning
22 Paragraph 241, as you know, in 2015 we conducted a
23 survey that related to the public police officers,
24 personnel that was detained for seven days. So what
25 we're doing right now is we're conducting the same

1 type of survey to ensure we have a parallel
2 understanding of what happened in 2015 versus what's
3 happening right now in 2018.

4 I was informed that 1,327 people were
5 already surveyed, okay, for the population throughout
6 Puerto Rico, the 78 towns. Approximately about 400
7 officers had been interviewed and then that were --
8 they're working right now in terms of the personnel
9 that has been detained.

10 In this venture, we had a cooperation
11 between the Puerto Rico Police Bureau and ourselves
12 to get this done. Commissioner Escalera signed a
13 piece of paper to ensure that everybody within all
14 the precinct knew that we were coming. We have some
15 hiccups in terms of the detainees. I work with the
16 Associate Colonel Bermúdez to deal with that, but
17 it's ongoing. So the results of that will be here
18 pretty soon on that survey. It's --

19 THE COURT: Let me add something, the
20 methodology Dr. Blanco-Peck is using for the survey
21 that has been proposed by the TCA, and the parties
22 have agreed like last time. This is not a survey
23 performed by the Monitor *ex parte* --

24 TCA ARNALDO CLAUDIO: No, sir, correct.

25 THE COURT: -- it is agreed by everybody.

1 And the idea is to, again, update that survey from
2 about a year and a half ago to see what the public is
3 perceiving about the Reform, what officers are
4 perceiving. I remember some of the questions to the
5 officers -- Do you know about the Reform? What do
6 you think about it? Same with the public. And
7 that's that update.

8 TCA ARNALDO CLAUDIO: That is correct.

9 THE COURT: Let me also note that the budget
10 for this Dr. Blanco-Peck works for UPR so rather than
11 using one of these consulting groups that would cost,
12 you know, 300,000 to do this, it's a very -- it's a
13 di minimus cost and it's paid with the TCA's funds.

14 TCA ARNALDO CLAUDIO: That is correct, sir.

15 THE COURT: So we continued, I think, to try
16 and save as much government money as possible.

17 TCA ARNALDO CLAUDIO: Yes, sir. When we
18 went out there we even had a proposal of half a
19 million dollars and when you see that
20 Dr. Blanco-Peck's \$35,000 it's like an incredible
21 minimum amount of dollars.

22 THE COURT: So, that's --

23 TCA ARNALDO CLAUDIO: On the 1 May basically
24 we have had also the cooperations of PRPB where the
25 assessment has been extremely satisfactory at this

1 time. We have interviewed personnel. We have
2 interviewed victims or presumed victims, I should
3 say. We have included also witnesses which
4 include --

5 THE COURT: When you say presumed or
6 purported or alleged victims, it could be individuals
7 who allege that they were mishandled by the police.

8 TCA ARNALDO CLAUDIO: That's correct.

9 THE COURT: But you could also have police
10 officers who may allege that they were thrown objects
11 or --

12 TCA ARNALDO CLAUDIO: It goes both ways. It
13 goes both ways on this. We also had including the
14 ACLU and the bar association personnel, we have
15 talked to them. We have also interviewed obviously
16 the PRPB including the commissioner that helped us
17 out through this process. We have reviewed videos.
18 PRPB actually extended to us 12 DVDs provided by
19 Attorney Joel Torres. We're looking at some other
20 DVDs that were furnished to us by the ACLU, videos
21 from Telemundo that we captured on that day and then
22 several of the hundreds of pages provided by PRPB in
23 terms of documentation that had to do with special
24 orders, plans, and so forth and so on.

25 We had a self assessment also by PRPB that

1 we've received, and to this date we have worked over
2 about 200 hours in this assessment, so the assessment
3 should be -- actually it's in the hands of Attorney
4 Bazán right now for a final look for the
5 constitutional side to be turned in. The way it's
6 going to happen is before it is presented to you,
7 sir, we're going to go to both the parties. And our
8 protocol is to go and brief the commissioner. Once
9 we brief the commissioner then we will bring it to
10 the Court.

11 THE COURT: Okay, and let me also ask this
12 report again as, you mentioned, it's being reviewed
13 by Attorney Bazán. I understand that still you need
14 to get -- after it's reviewed before it's submitted,
15 there was a team of the TCA office that was present.
16 Those interviews or that input has not been I think
17 as of yet added, but that would be Attorney
18 Castellanos who was present at I believe two of the
19 locations and actually Retired Justice
20 Hernández-Denton so obviously that would be added to
21 what you have now for a final --

22 TCA ARNALDO CLAUDIO: Right. During the
23 time that 1 May was ongoing, that the TCA's office
24 actually put observers out on the streets, that was
25 obviously Attorney Castellanos, Attorney

1 Hernández-Denton, and Mr. Pujol. Mr. -- Attorney
2 Denton himself he was at the -- what we thought was
3 the operations center for the police, and then that
4 didn't happen because the operations center actually
5 was moved to the Banco Popular de Puerto Rico. So
6 that's something that we will talk about and discuss
7 when we're ready to present the report.

8 THE COURT: Okay, so when that is -- the
9 parties will have an opportunity to --

10 TCA ARNALDO CLAUDIO: Right. The most
11 important piece is that when we finish we present it
12 to the parties for comments, and then we'll go ahead
13 and present it to the commissioner itself because it
14 comes to you, sir.

15 THE COURT: And just on the observers, I
16 know Mr. Pujol and Attorney Castellanos were out
17 there. Just so everybody knows, we set some
18 directives, the parties worked on them, and whenever
19 there's protests the TCA staff will wear jackets,
20 badges to identify themselves. We'll be informing I
21 guess the area commanders, where they -- and they
22 will be given an area where they can participate.

23 I know -- this is obviously for a next
24 hearing at some point lessons learned, but just to
25 highlight a few because I have talked to you and your

1 team. One of the things obviously the words
2 "Monitor's Staff" has to be larger in the jackets and
3 maybe bigger cards. And obviously at some point I
4 know there were some gases and the TCA staff was
5 right there where it is so obviously for future times
6 we have to take additional precautions or measures.

7 But I do note that from the perspective --
8 again, the report is not final but there was
9 coordination. Again, we have to do for your report
10 the lessons learned part, but I think it's important
11 that there were no issues with having the TCA and its
12 staff at the protest. And, again, since May --

13 TCA ARNALDO CLAUDIO: Actually that day the
14 commissioner talked to members of the server team,
15 and remember the focus of this whole when we're
16 looking at the evaluation it's general Order 625,
17 which basically is *manejo de manifestaciones*. And
18 that's where we're looking at kind of the centerpiece
19 when we look at this. Also, we look at where the
20 action of the incident commander at that point in
21 time. Right now the incident commander imparted
22 orders as we go forward.

23 THE COURT: So if there's -- I'm going to
24 hear from the parties if there's anything and then
25 I'll take a short recess. And think we'll have one

1 or two matters that may take a few minutes and the
2 rest I think should be fairly short. So let me ask
3 Mr. Saucedo any comments as to what Mr. Claudio has
4 said and if not then I'll hear from Mr. Torres.

5 MR. SAUCEDO: Your Honor, just briefly we
6 appreciate the work of Dr. Blanco-Peck in getting the
7 survey done. Last year he conducted focus groups
8 that were very helpful in this process, and so the
9 surveys are going to provide us an indication of
10 whether the Reform office is working because among
11 the things it measures is confidence that the
12 community has in the police and so that data is very
13 important.

14 I also want to thank Mr. Pujol and his team
15 for working on the May Day protests and the work
16 that's being done there. We look forward to the
17 report. I do want to make a quick note since we are
18 going, Your Honor, into the compliance phase of this
19 case. And what's very important is that --

20 THE COURT: We're at the monitoring phase.

21 MR. SAUCEDO: Well, the compliance phase
22 with the Agreement rather than the action plans, Your
23 Honor.

24 THE COURT: Okay.

25 MR. SAUCEDO: And that is that it's

1 important for the Commonwealth to view the TCA's
2 report as a source of information about how its
3 processes are working. They shouldn't be relics,
4 right. So this is now the second report that the TCA
5 and his team have done on the May Day protest. There
6 was a protest in 2017 that was reviewed. There was a
7 protest this year that was reviewed. It's important
8 that once the TCA makes recommendations that we pay
9 close attention to how PRPB evaluates those
10 recommendations and how they implement them into
11 their policies and trainings.

12 Our understanding is that the police bureau
13 has incorporated some of the fine findings that were
14 made in the first report into the updated and revised
15 policy, but it's something that on an ongoing basis
16 the TCA's recommendations, whether the Commonwealth
17 accepts them or not, they are findings that should be
18 taken into account and should be incorporated into
19 improving the processes going forward.

20 THE COURT: Well, let me ask, I think it's
21 important because the government may not be the
22 Commonwealth in total agreement with perhaps a
23 conclusion, a particular conclusion, but the
24 important thing, as you well mentioned, is the
25 recommendation of the TCA. And this is not a

1 he-said, she-said thing. I think what is important
2 is, moving forward, how can we use this report as a
3 tool. And I know in this report -- and Mr. Claudio
4 still has not issued the final draft report to the
5 parties -- something that may be very valuable is if
6 there's matters that were present in the 2017
7 protest, they were not in this protest. The
8 Commonwealth was able to handle using those
9 observations in the earlier report, that's something
10 that should be highlighted to the police what is
11 good. And if there's something that needs room for
12 improvement also notify. But I think with these
13 reports that's the idea. You hit the nail on the
14 coffin, Mr. Saucedo. These reports are not meant to
15 establish liability or other matters; they're meant
16 as a working tool to the Commonwealth.

17 So let me --

18 TCA ARNALDO CLAUDIO: Yes, sir. I mean,
19 that's an important factor because like, for example,
20 in the first report we're very poignant about the
21 incident commander. And then when you look at 2018,
22 without giving too much detail here, you see again
23 the same issue with the incident commander that
24 instead of one incident commander there's various
25 incident commanders, there's various colonels

1 present. So an order was given. Who was giving the
2 order, how the chain of command was --

3 THE COURT: But those may be recurring
4 patterns. They may be good, they may be things you
5 have to criticize, things you have to recommend. But
6 I think it's something that is being documented I
7 think for the first time in the history of Puerto
8 Rico. So anything else on behalf of the Commonwealth
9 before I take a very short break?

10 MR. TORRES-ORTÍZ: Yes, Your Honor. We look
11 forward reviewing the assessment from the TCA and on
12 the recommendations that the report has, but also I
13 was informed that the police is also working on a
14 report based on the same event from May 1st.

15 THE COURT: Okay. Great.

16 TCA ARNALDO CLAUDIO: So then it will be
17 very important for us to receive that self-assessment
18 before I present --

19 THE COURT: It could be very positive.

20 TCA ARNALDO CLAUDIO: Right. I mean, we
21 might learn from them certain things that we did not
22 know so we actually would need to discuss that point
23 before --

24 THE COURT: I would urge the parties to
25 discuss and agree to when that would be provided,

1 then you can perhaps provide yours a bit later
2 because it may be very valuable input.

3 So I will take a short recess so my court
4 reporter can relax a little bit for a few minutes and
5 stretch. It is 4:20. Let's all be back here at 4:30
6 and I'm starting with whoever is here. And, again,
7 we should be out by 5:00, 5:15, but I think overall
8 this has been very useful thus far. Let's take a
9 ten-minute recess.

10 (The Court exits the room.)

11 (Public hearing recessed at 4:20 p.m. and
12 resumed at 4:40 p.m.)

13 THE COURTROOM DEPUTY: All rise.

14 (The Court enters the room.)

15 THE COURT: Please be seated. Let's now go
16 to Item No. 6. It's the TCA's assessment of
17 transfers at FURA. That's the United Forces of Rapid
18 Action in English. And let me hear from Mr. Claudio.
19 And you said you would be brief as to this matter.

20 TCA ARNALDO CLAUDIO: Extremely brief.

21 MR. TORRES-ORTÍZ: Excuse me, Your Honor, if
22 I may.

23 THE COURT: Yes.

24 MR. TORRES-ORTÍZ: I have one thing I would
25 like to state for the record on a previous topic.

1 THE COURT: Yes, please go ahead.

2 MR. TORRES-ORTÍZ: I just spoke with the
3 police reform office and I was informed that the
4 concerns that Attorney Saucedo told the Court they're
5 already part of the policy that is going to be given
6 to the U.S. DOJ and TCA on August 31st.

7 THE COURT: Okay, and that's as to the last
8 item.

9 MR. TORRES-ORTÍZ: The EIS, yeah.

10 THE COURT: The EIS, okay.

11 Okay, so Mr. Claudio on Item No. 6.

12 TCA ARNALDO CLAUDIO: Yes. Very quickly,
13 Your Honor. As you remember, in the last status
14 conference we spoke about an evaluation on the
15 transfers that were conducted by the Puerto Rico
16 Police Bureau referring those transfers. There were
17 ten specific transfers on the month of June that
18 occurred and we want to look at that evaluation. The
19 Court agreed to that and based on the Agreement of
20 the Court we wrote --

21 THE COURT: Well, I ordered that.

22 TCA ARNALDO CLAUDIO: Yes, sir. Agreed and
23 ordered that. You also ordered for a methodology to
24 be constructed, we did the methodology.

25 THE COURT: That was approved.

1 TCA ARNALDO CLAUDIO: Yes, sir. We share it
2 and approved. So today we supposedly should have
3 started with that evaluation; however, we were told
4 last week by PRPB that neither officers that we have
5 requested for interview nor the paperwork would be
6 available. So we're bringing that matter to the
7 Court today for the Court to give us some guidance on
8 that.

9 THE COURT: I'll hear first from Mr. Saucedo
10 and then Mr. Torres, but let me start by saying that
11 I don't even know why this is an issue. This had all
12 been discussed previously, and Mr. Pujol this
13 investigation is -- this is not a public
14 investigation he's going to be sharing with
15 everybody; it is a TCA investigation for the use and
16 benefit of the parties and that information should
17 have been provided. So let me hear from Mr. Saucedo
18 and then I'll hear from Mr. Torres.

19 MR. SAUCEDO: Yes, Your Honor, briefly.
20 Having looked at the draft methodology and the one
21 that was approved in final, Your Honor, the scope of
22 the study is not just transfers involving FURA. So
23 just to clarify the record, the United States
24 understands that the assessment that will be
25 conducted by the TCA is of transfers from June and

1 July and that includes units beyond FURA. And --

2 THE COURT: And I stand corrected.

3 MR. SAUCEDO: Yes, Your Honor. And the
4 second point is one of our comments to the
5 methodology is that it be connected to the staffing
6 study and plan that are being developed by Paragraph
7 13 or under Paragraph 13. A lot of work and effort
8 will be undertaken to ensure that the different areas
9 of the police bureau have the right staffing. And
10 illegal or unjust transfers that go against policy
11 are going to defeat that purpose because, again, the
12 whole point of having a staffing plan is to ensure
13 that the resources that the police bureau has go to
14 the right places. And when you're moving people
15 around there is a risk of undermining those efforts.

16 And so we welcome the TCA's review of these
17 transfers. We believe it fits squarely within the
18 purpose of Paragraph 13 and the allocution of
19 resources. I'm not prejudging here, we have not
20 looked at any of these cases of transfers so we're --
21 we will await the TCA's evaluation of these
22 transfers. The only thing I wanted to point out is
23 that whenever there are transfers that are not in
24 compliance with the Agreement or with local laws that
25 is, Your Honor, we put at risk all the efforts that's

1 going into allocating resources effectively within
2 the agency.

3 THE COURT: Let me ask you, are you in
4 agreement or in disagreement to the effect that
5 pursuant to my directives and the methodology already
6 approved Mr. Pujol should have been given immediate
7 access to the paperwork to conduct the interviews?

8 MR. SAUCEDO: Your Honor, the Agreement does
9 require notice of documents and of reasonable period.
10 I believe the word is "reasonable access." But, you
11 know, there are exceptions in the Agreement for
12 attorney-client privilege and so I can understand
13 where some time is needed to review documents or
14 other materials before they are submitted; however,
15 I'm not certain what the circumstances are for the
16 request for additional time from the Commonwealth.

17 THE COURT: So let me hear from the
18 Commonwealth because I understood this was a done
19 deal, it was not an issue, we had discussed it
20 previously, and Mr. Pujol was going to commence. But
21 obviously he wasn't able to commence. So let me hear
22 from Mr. Torres.

23 MR. TORRES-ORTÍZ: Yes, Your Honor. Thank
24 you for the opportunity to clarify. We are not
25 objecting to the methodology. Mr. Pujol sent a

1 request for documents and interview on Wednesday.
2 And the police asked if I could give an assessment of
3 the request that was made to the police. And, you
4 know, as part of the attorney guidance that is given
5 to its clients, I asked Mr. Pujol to give us until
6 next Wednesday, that is August 22nd, to give any
7 explanation or any concern that we have with the
8 request. But we are not objecting to the methodology
9 that was submitted to the Court and approved by the
10 Court.

11 THE COURT: Okay, because let me say what
12 concerns me. And, again, I hope that -- I start a
13 trial in about a week, it's a murder case. And,
14 again, I can't be -- you know, for minor issues that
15 come up. Whether documents were provided or not,
16 these matters should be resolved readily. And I
17 think Mr. Pujol is here pursuant to the methodology.

18 And, again, this is taking me back a year,
19 two, three, four years ago when -- and it's happened
20 also in the health reform case involving the persons
21 with mental disabilities that, you know, somebody
22 goes to obtain documents one of the TCA members or
23 Monitor's members, and somebody is second-guessing
24 or, you know, we can't provide this, we can't provide
25 that. Again, the Monitor is there to help everybody

1 to obtain the information. He's not there to
2 prosecute anybody or to file suit against anybody,
3 and these documents, this information, should be
4 provided.

5 Again, I don't think -- the Monitor is not
6 here working on a basis of bad faith and let me go on
7 a fishing expedition. Mr. Pujol is an experienced
8 investigator for many years, he knows exactly where
9 he's looking. And if there's something there to make
10 a finding, he will report it; and if there's nothing
11 there to make a finding, he will say there's nothing
12 here. But, again, if the parties want to agree on
13 24 hours or 48 hours whenever a request is made, I
14 have no problem if it is done; but it is something
15 that unilaterally the police cannot simply say, We
16 want to consult this, we need additional time,
17 because then he's never going to end his evaluation.

18 So what I'm going to do is obviously set a
19 directive. Obviously it's working days. Whenever
20 Mr. Pujol makes a request or anybody from the
21 Monitor's office, it should be provided within
22 48 hours. If I understand there may be something in
23 there that's attorney-client privilege or if there's
24 anything -- you know, it might just double-check
25 everything, but he should be allowed to interview the

1 officers. Again, I don't want -- come time
2 Wednesday, Oh, no, Mr. Pujol, another week and
3 another week. And that is something that should
4 be his.

5 So what I'm going to do is pertaining to
6 this particular investigation or assessment, let me
7 call it assessment, or any other matters, we're going
8 to start with the monitoring period, there has to
9 be -- you know, it's not like, We're not ready, we're
10 going to take two weeks or three weeks. Again, I
11 recognize during Christmastime it may be harder,
12 everybody's on vacation. Nobody's going to say,
13 Well, it's the 1st of the year. We're conscientious
14 of that. But let me set prospectively, for this or
15 any other matter, when requests are made for matters
16 of this, it's 48 hours.

17 If it's something that's attorney privilege,
18 the TCA or Mr. Saucedo can discuss that with you but
19 we need to move things along; otherwise, this drags
20 along and it gives the impression that the
21 Commonwealth -- and what you're saying is the
22 Commonwealth has no issues, but it gives the
23 impression of lack of transparency, that the
24 Commonwealth doesn't want to cooperate. And that
25 looks bad on the commissioner. Again, I don't want

1 to give that impression.

2 And I think everybody can live with the
3 48 hours. Is everybody in agreement?

4 TCA ARNALDO CLAUDIO: Yes.

5 THE COURT: This is a directive there may be
6 exceptional circumstance but we Inc. we had --

7 MR. TORRES-ORTÍZ: Your Honor, it's
8 important to know that, you know, this has been a TCA
9 visit week, it has been very hectic. We had two town
10 hall meetings, one Saturday, we had another one on
11 Wednesday. And so if, you know, circumstances arise
12 to it, you know, we might need an extension.

13 THE COURT: I understand the circumstances.
14 As a general operating rule, 48 hours, two working
15 days. And if it's requested on a Thursday, then
16 obviously Friday, you know, don't count the weekends
17 in between, but let's leave it like that for now.
18 Hopefully it won't be an issue.

19 TCA ARNALDO CLAUDIO: So, Your Honor, excuse
20 me. So I can say that we will receive the
21 information by Wednesday morning.

22 THE COURT: By Wednesday morning.

23 TCA ARNALDO CLAUDIO: Thank you, sir.

24 THE COURT: Except if there's any issues of
25 privilege then the TCA has its attorney, Mr. Saucedo

1 is an attorney, so you can discuss that internally if
2 there's any issues, but, again, that's going to be a
3 very slight percentage, I understand.

4 Item No. 7, is the update on the proposal
5 regarding the PRPB police academy. I note that the I
6 continue to be informed on a monthly basis. I know
7 Ana G. Méndez University has continued their
8 proposal. But let me first hear at this time from
9 Mr. Saucedo.

10 MR. SAUCEDO: Yes, Your Honor. The TCA
11 informed the Court and the parties about this
12 unsolicited proposal last year in May of 2017. And
13 at that time the Commonwealth agreed to keep the TCA
14 and the United States apprised of developments in the
15 consideration of that proposal. The.

16 United States is not involved in the
17 selection or the review of any of these materials.
18 We did receive a briefing and did discuss this last
19 week with the Commonwealth. We understand that they
20 are at a very preliminary stage of consideration of
21 this proposal. It was -- and I can understand that
22 the Commonwealth does not want to share details about
23 that proposal until it determines for itself that
24 it's a viable proposal and so that is understandable.

25 The United States' concern is that, you

1 know, it's been more than a year since these plans
2 first came to light to us in this case and in the
3 meantime there are some very serious needs at the
4 police academy. And so while the Commonwealth is
5 considering who will at some point operate the police
6 academy and under what model, we have some concerns
7 about the physical plant issues at the academy, the
8 administration of the academy, and how many people
9 are assigned to work there, the information systems
10 that are being developed, the contracts with
11 instructors.

12 So, there's ongoing in-service training that
13 is required. At some point the police bureau will
14 hopefully recruit new cadets and the police academy
15 needs to be prepared for that eventuality. And so
16 while the Commonwealth continues to evaluate this
17 proposal, we've agreed as of last week to continue to
18 focus on the current needs of the academy to make
19 sure that that academy has the resources and support
20 it needs to be able to carry out its mission.

21 THE COURT: And let me ask, from your
22 perspective, and I'll ask the same question of the
23 Commonwealth, the academy -- we have not had a new
24 academy. And when I say a new academy, a new cadet
25 class graduating for about three years, but the

1 academy is still in operation and officers go there
2 to take courses. And courses are being given at the
3 particular regions, which was one of the important
4 things, that the officer -- you know, if somebody is
5 from Peñuelas he doesn't have to go to Gurabo to the
6 academy. But the physical structure of the building
7 is still there but a lot of the training is given
8 on-site. Am I correct? That's still ongoing?

9 MR. SAUCEDO: Yes, Your Honor. The United
10 States' understanding is that the police bureau did
11 create individual centers, training centers, in each
12 of the 13 areas. They've also started to implement
13 virtual training so that officers can take training
14 wherever they're located. The question is the cadets
15 will have to go to the academy, they won't be able to
16 get trained at any of these regional sites. And so
17 it's important, as part of the planning for the
18 recruitment of these officers, that we make sure that
19 the academy is prepared to take them in and has the
20 resources it needs to do a quality job.

21 And the TCA may have more recent
22 information, I know that they were visiting there
23 last week.

24 THE COURT: I'm going to ask him to provide
25 any other information he has and then Mr. Torres can

1 respond. I have a few comments.

2 TCA ARNALDO CLAUDIO: Yes, sir. I had a
3 visit to the academy actually the last week and the
4 physical structure of the academy cannot withstand
5 right now an academy. It cannot. It lacks the
6 dining facility, all the 900 or 600 places where the
7 cadets will sleep they're in pretty bad shape,
8 they're deteriorated --

9 THE COURT: And that's because of the
10 hurricane in part?

11 TCA ARNALDO CLAUDIO: The hurricane in part
12 and because nothing has been really done at this
13 point in time. So if you really take an assessment
14 just on the infrastructure, it will take between six
15 or eight months just to put the academy together so
16 people can actually go in an academy to -- and we're
17 talking about millions of dollars of investment in
18 the whole thing.

19 So it is good and we applaud the effort of
20 thinking about getting, you know, some referrals for
21 new cadets, but the matter of fact is that the
22 academy, the infrastructure, will not be ready.

23 THE COURT: They need a facility.

24 TCA ARNALDO CLAUDIO: It has to be a major
25 effort and total dedication for this.

1 Notwithstanding that a lot of the staff is gone.
2 They're also -- some of them have put in either for
3 retirement or just to get out of the police at this
4 time. So you're going to look at the staff and
5 revamp the staff and give and Colonel Rivera, a
6 productive staff going forward, and that includes the
7 civilian staff. So this needs a major overhaul in
8 infrastructure, human resources, and a proposed
9 budget that can facilitate both of those.

10 THE COURT: Okay, thank you. I'll hear now
11 from Mr. Torres. Let me just make two or three
12 general comments before I hear from the Commonwealth.
13 First of all, as I have always mentioned, the
14 decision whether to go to public/private partnership
15 is solely in the hands of the Commonwealth.

16 From my perspective, that's what this
17 administration proposed at the beginning when it came
18 into power and, again, that intent will be respected.
19 And that's important for everybody to know. And it
20 will be supported. And once an A.P.P. -- again, the
21 proposal has been Ana G. Méndez. And I will note for
22 the record that university system has been in place
23 in Puerto Rico, I believe, for over 50 years. It
24 does have programs right now. It's a big university,
25 private university. It does have programs and it's

1 offering a similar academy for corrections officers.
2 But I think from -- and I know Mr. Orona is here so
3 that's why I'm saying this as well. It's very
4 important that the Commonwealth expedite its process.

5 It would appear to be that Ana G. Méndez is
6 a viable candidate. The decision is not mine to
7 make. But it's important that whatever is going to
8 happen be done. The election cycle is in 2020 so
9 we're still in 2018, but once we reach November this
10 point of year it's half the term of this
11 administration. And I think it's important because
12 this should not be something that's done in the last
13 three months of an administration.

14 I think we're reaching the mark where Puerto
15 Rico needs a new academy, a group of new cadets.
16 Again, due to financial restraints it may not be a
17 huge class. But it's very worrying that for the last
18 three years I did not -- I have not seen a
19 graduation. Plus, the last one almost three years
20 ago was mostly, I would say, 90 percent municipal
21 officers. So Commonwealth officers it's been maybe
22 three and a half years since that has happened. And
23 Colonel Clementina Vega can probably recall when the
24 last class was.

25 But I think it's important that the

1 Commonwealth what its plans are, move them ahead,
2 expedite them. If Ana G. Méndez is approved
3 before -- and has been mentioned, you can approve it
4 but then the TCA and the U.S. DOJ have to come in,
5 they have to review everything just to make sure it
6 qualifies with the police reform and ultimately I
7 would have to approve it upon the recommendation.
8 Again, so it's not a matter of selecting and saying
9 this is the selection; it needs approval ultimately
10 from the Court.

11 And, again, I don't see any obstacles, no
12 impediments, except that the Commonwealth really
13 needs to move on this. It's important getting that
14 academy. I know the building -- what Mr. Claudio has
15 mentioned, that presents some other challenges,
16 raising the moneys, but I think what is foremost
17 important is that there be an academy operating and
18 not a big question mark of what's going to happen.

19 And I know, again, when you have a public or
20 private partnership the cost for the government may
21 be reduced. I know that's a model of the future,
22 it's been done not only here; it's been done
23 nationally at all levels. So I think given the
24 fiscal situation it's a very good idea, but it has to
25 be done the right way and it has to be done sooner

1 than later. So, those are my general comments.

2 I'd like to hear from counsel. I know
3 Mr. Orona is here, so Mr. Orona if you have anything
4 else you need to add I think it would be very
5 important to hear from you as well.

6 MR. TORRES-ORTÍZ: Your Honor, if I may talk
7 about -- in regards of the physical structure of the
8 academy, I've been informed that the dining hall is
9 currently being fixed and the theater area is
10 functioning at the moment. And in respect to the
11 sleeping areas it is going to be looked into to see
12 how much it will be needed to get it fixed.

13 THE COURT: Okay. And, again, one of the
14 important things is the officers are training
15 physically part of the day but they're also training
16 and they have homework. That's one of the things
17 that the facilities are so important because they
18 have to stay there, they're quartered there. And,
19 again, if it's no new fans, no air conditioning, no
20 light, it's hard for them to do this. And I know
21 that's something you'll have to assess but keep
22 updated.

23 So if Mr. Orona has anything to add from
24 the -- not the day-to-day of the academy but the
25 bigger issue with Ana G. Méndez or any other

1 proposal.

2 MR. ORONA-AMILIVIA: Your Honor, I think
3 it's important, you know that -- first of all, the
4 Commonwealth agrees and shares their concerns
5 regarding the need to update the facilities in the
6 academy both presented by the U.S. DOJ and the TCA.
7 And I think that's something that we -- even though
8 our financial constraints, we're taking steps to
9 actually try to find the moneys necessary to bring
10 back and create another academy and to bring
11 up-to-date the physical structure even though those
12 financial constraints are there. And unknown to the
13 public, we have been taking additional steps to do
14 that.

15 But I think it's important to note that
16 regarding the proposal made by Ana G. Méndez it was
17 an unsolicited proposal which means that it's not
18 really -- it wasn't really something that was part of
19 the public policy per se of the government, it was
20 just a proposal that was received from Ana G. Méndez.
21 And how the process works is that after the
22 desirability study is conducted it goes to a board
23 and if the board approves an R.F.P. is issued for
24 that public/private alliance or partnership.

25 So right now we're still on the preliminary

1 process to determine whether or not that proposal is
2 desirable, and when that's happened it goes to the
3 board so that they could issue a public announcement
4 for public comments.

5 Our, and what has been our compromise is
6 that once between -- after if it's decided that the
7 project is something that we want to do and before it
8 goes to the board, we are going to sit down with the
9 U.S. DOJ and the TCA office to make sure that what
10 goes out from the 3-P alliance includes and it takes
11 into consideration all of the aspects that if a
12 public -- if a private/public partnership is actually
13 coming into place, it has to include everything that
14 the Agreement -- that it has complied with everything
15 that is on the Agreement.

16 And, secondly, it is important to note that
17 even though Ana G. Méndez is actually the one that
18 actually presented the proposal that doesn't mean
19 that the proposal is not going to be open for
20 competition from other institutions that may be
21 willing to participate or that have interest in
22 creating a private and public partnership with the
23 government regarding the academy. So in that sense,
24 you know, there were other issues that actually, and
25 I agree, that has delayed the process but we're

1 working on it. And once the process comes to a
2 completion and if we decide that the process is
3 desirable for the Government of Puerto Rico, then we
4 will sit down and make sure that all the processes
5 that come after that are in compliance with the
6 Agreement and in compliance with the Reform process.

7 THE COURT: Okay. So what I ask is for
8 Mr. Torres just continue to inform monthly of any
9 matters. And, again, my -- it's not an order but my
10 advice to the Commonwealth is that to the extent it's
11 considering Ana G. Méndez or you have to go through a
12 whole sort of process it should be done on a most
13 expedited basis. Ideally, January, February or March
14 of next year there should be somebody ready to have
15 the academy and then maybe by the summer at the
16 latest a new group of cadets.

17 Again, officers continue to retire, there's
18 also those who have left after the hurricane and all
19 the conditions, but new recruits are needed. So,
20 let's leave it at that for now, we'll continue to
21 revisit these issues. Thanks for everybody's
22 comments.

23 Now, the next item, and I'll address that in
24 three seconds. I think it's important -- and I know
25 Mr. Orona you're here and so is Commissioner

1 Escalera, when we have these statuses -- and, again,
2 I will probably have them every two months or --
3 definitely not next month, I have a trial. But it's
4 important. And I will set them at a time when
5 everybody's available, usually in the afternoon. But
6 it's important that you continue to come because I
7 think your input and at least your observations and
8 just seeing what everybody's thinking is very
9 important. So, that's that issue.

10 The next issue is the update on the town
11 hall meetings. Mr. Claudio if you want to say
12 anything about this and then I know Mr. Castellanos
13 is here who's been organizing these town hall
14 meetings. Let me just -- I don't know if everybody
15 knows how I came up with this idea.

16 As you all know, I like basketball and I
17 like the movie Hoosiers. And there's a scene in that
18 movie where Gene Hackman who's the coach is about to
19 be fired by the municipal assembly and there's a town
20 hall meeting. And the assembly comes out and he
21 listens to everybody, and anybody from the town can
22 come and explain his concerns. Don't fire him, fire
23 him, do this and that. And they do fire Gene
24 Hackman, but then the star player says, I'm going to
25 play, but only if Coach stays. And everybody says,

1 Hey, let's vote for Coach.

2 That's the concept of town hall meetings
3 because it's not only the decisionmakers who are
4 there talking what their plans are or having the TCA
5 say, This is what we're doing, this is our
6 methodology, having Mr. Torres say, Well, DOJ is
7 doing this, and Mr. Saucedo saying this is what U.S.
8 DOJ did. You share that, but then you get input from
9 police officers, from the region, from the community.
10 You also hear from persons affected or benefited by
11 the police reform, and I think that's very unique and
12 important.

13 I was trying to do that in my bigger status
14 conferences, it's just very -- just hearing from
15 particular officers or programs like I've been doing
16 today and mixing that with the opponents from the
17 community it's very hard and more so now with my
18 extra added duties that I did not ask for them but I
19 inherited them. But I think this is what the town
20 halls seek. And I try to participate. I did send a
21 video, a very short video welcoming everybody. That
22 will be played every time. But let me hear from
23 Mr. Claudio and Mr. Castellanos.

24 TCA ARNALDO CLAUDIO: Sir, not to be
25 repetitive so I'm just going to go ahead and ask

1 Mr. Castellanos to present the town halls.

2 THE COURT: Okay.

3 MR. CASTELLANOS-BAYOUTH: Thank you, Your
4 Honor. And thank you for the TCA also for yielding
5 his time so I could address the Court.

6 Before I make some particular statements as
7 to what we're doing and what we intend to do for the
8 remainder of the year, I think it's imperative that
9 the Court and everybody who is listening understands
10 that from the perspective of the office of the TCA,
11 and I'm sure of this Court, the importance of the
12 town hall meetings is premised on the importance of
13 the people participating in the process of reforming
14 their police.

15 As Your Honor knows, because we've shared in
16 conferences outside of this jurisdiction, not
17 everyone throughout the United States feels the same
18 way as to the capability of the people taking action
19 in an affirmative matter in assisting their police
20 officers and their police department transforming
21 itself and becoming a better police overall.

22 With that being said, I think we set out
23 some objectives of identifying different regions
24 throughout Puerto Rico where we felt that throughout
25 the last couple of years, obviously because of the

1 workload of Your Honor and this court, we haven't
2 listened to the people as to their concerns, their
3 opinions, and their vision as to the police reform.
4 So we set an agenda commencing in Ponce then we
5 proceeded to Caguas, then we just concluded an
6 extremely successful public hearing, town halls as
7 Your Honor calls them, in Fajardo this past Saturday.
8 And we still have for the remainder of the year town
9 halls scheduled for Bayamón, Arecibo, Guayama, and
10 Mayagüez.

11 So far we have spent nine hours in town
12 halls. We have received testimony from 36 different
13 speakers in total, but including even representatives
14 of public housing communities from all sectors of
15 society and with particular emphasis on the key areas
16 that have been identified in the police reform
17 agreement so that the community ultimately feels
18 empowered and feels a part of creating that necessary
19 bond between the community and the police force.

20 We feel that if, well, Your Honor's vision
21 isn't put into effect those bonds that have been
22 identified by both the Department of Justice of the
23 United States and have been acknowledged by the
24 Department of Justice of the Commonwealth of Puerto
25 Rico aren't strengthened, ultimately the Reform

1 itself will not be sustainable.

2 So we have received participations again
3 including mayors, including community leaders. The
4 police has been present. And from a personal -- from
5 my individual capacity, and I may utter this and some
6 may agree, some may not, I think in the matter that
7 the police commissioner and even at times the
8 secretary of the Department of Public Security can
9 participate in some of these town hall meetings,
10 they'll get a better understanding of what's actually
11 going on and what the people are actually feeling in
12 terms of the police reform.

13 THE COURT: When you say the people are
14 actually feeling, it's the citizens but it's also the
15 police officers who are working in that region.

16 MR. CASTELLANOS-BAYOUTH: Correct. So
17 ultimately it's not the same because of the distance
18 and the size of the Reform -- and this is my personal
19 opinion, because it has been uttered in different
20 town hall meetings. But I think in the matter --
21 everybody knows their busy schedules, everybody knows
22 they have a lot of commitments. But in the matter
23 that once in a while they can participate and they
24 can be present in these town hall meetings, it will
25 only strengthen the outcome of the town hall

1 meetings. And if Your Honor deems it necessary, at
2 the time that we're compelled or asked to generate a
3 report as to what matters we have identified that
4 need special attention and we share the same with the
5 parties, Your Honor, I think, will be convinced that
6 this participation, this presence, will ultimately
7 benefit the proceedings, will benefit the credibility
8 of the proceedings. And ultimately we will all
9 benefit from more activism from at least the high
10 level hierarchy of the police department.

11 That being said, I commend -- I have
12 commended numerous members of the police force. I've
13 written to them personally because without the active
14 participation of members of the police department
15 both area commanders and the personnel that they have
16 designated to assist this Court and the TCA's office
17 to organize the town halls, these town halls would
18 not have proven as successful as they have proven.

19 We have encountered hiccups. When we have
20 encountered hiccups, we have had conferences,
21 telephone conferences, with the participation of the
22 parties. We have tried to fine-tune these hiccups
23 and we have proceeded and moved forward. And I think
24 after Saturday's town hall meetings we are finally
25 seeing the benefits of everybody's contributions.

1 But we have an ambitious agenda, we have an ambitious
2 objective, and maybe these objectives will take us
3 beyond 2018 and into 2019 once Your Honor gets --
4 receives the benefits of the fruits of what is taking
5 place in these town hall meetings.

6 THE COURT: Thank you. What I would like --
7 and, again, this is a cycle, I call it the
8 2018-cycle, it's these six town halls. I assume next
9 year there will probably be town halls at some --
10 it'll be like baseball season, we can have it at
11 different parts of the year. Once these town halls
12 conclude, I believe in December, that the TCA and I
13 guess through you who has been setting it up but also
14 with the TCA's comments prepare a -- again, it
15 doesn't have to be a huge 45-, 30-page report, but it
16 could a 8-to-12-page report. But I assume there's
17 going to be common trends in different town halls.
18 There's going to be issues that are specific here and
19 there, lessons learned. So I think that report to
20 share with the parties, just like when Mr. Pujol has
21 been doing his evaluation, I think a self-assessment
22 evaluation from the TCA's perspective would be very
23 welcome to the Court so then we can plan ahead
24 possibly another cycle.

25 I do want to advance obviously unrelated to

1 this case, in the health reform case that I also
2 have, another agreement between the United States and
3 Commonwealth, obviously I'm not holding them this
4 year not to conflict with these, but it is something
5 that I'm contemplating probably beginning February of
6 next year perhaps a shorter cycle, but I think it's
7 something we can adapt to that. So I think it's
8 been -- I have not heard anything negative, to the
9 contrary, I commend the TCA and you. I know the
10 challenges setting these meetings up and coordinating
11 and just keeping the clock for everybody. I know I
12 issued some orders.

13 And let me just ask you, has everybody -- I
14 guess the first one you kind of learn to -- and each
15 time you improved but at least in Fajardo everybody's
16 sticking to the time clock, I assume.

17 MR. CASTELLANOS-BAYOUTH: Yes, Your Honor.
18 Since the second town hall meeting in Caguas I
19 actually developed a red card caution as to the
20 duration of time left, remaining in each speaker's
21 turn. I was not required to use it once. And in
22 Fajardo, thanks to Your Honor, we had granted
23 additional time so that the people of Vieques and
24 Culebra could fully express themselves. They did,
25 they used their time.

1 And we received the participation of
2 additional speakers such as the mayor of Ceiba, and
3 that added a certain dynamic to that town hall
4 meeting that warranted -- like I mentioned to the
5 TCA, the little discretion that I have I think I used
6 it to make everybody feel that they had an
7 opportunity to address those who were present and to
8 speak directly to representatives of the TCA the,
9 Department of Justice of the United States, and the
10 Department of Justice of the Commonwealth of Puerto
11 Rico.

12 And I'm proud to say to this day, Your
13 Honor, not a single person who has requested an
14 opportunity to speak in any of the town hall meetings
15 has not been granted the authorization to speak.

16 THE COURT: And everybody has shown up,
17 correct?

18 MR. CASTELLANOS-BAYOUTH: We've had maybe
19 out of the three maybe two individuals who excused
20 themselves, but overall for the undersigned
21 specifically and I'm sure for the officers of the TCA
22 and the parties, the fact that everybody who has
23 requested an opportunity to speak has been granted
24 one is of great importance and worth mentioning to
25 the Court.

1 THE COURT: Okay, thank you. Let me hear
2 from Mr. Saucedo in regards to if there's anything
3 you want to comment. I know you were present.
4 What's DOJ's impression of these town halls. I think
5 that's important also to the Court.

6 MR. SAUCEDO: Yes, Your Honor. The United
7 States often does town halls as part of
8 investigations --

9 THE COURT: And you did so when this case
10 was being investigated here.

11 MR. SAUCEDO: That's correct, Your Honor.
12 And having them during the compliance phase is very
13 helpful. Your Honor, I think the town halls have
14 been of mutual benefit. It gives an opportunity for
15 the TCA and the parties who are working on the case
16 day-to-day to have an opportunity to have a dialog
17 and a conversation with members of the public who
18 have questions on their minds. But, more
19 importantly, it's an opportunity to learn from them
20 and to hear their experiences, and it's a reminder of
21 what's at stake in this case. You have two
22 governments who are the parties in this case, but
23 many people are affected and impacted.

24 We've heard some very compelling stories and
25 experiences from members of the public. We heard

1 some of them on Saturday in Fajardo, and we do look
2 forward to trying to get those more difficult
3 communities to come out and participate. There are
4 some communities where there's still some trust
5 issues. It may not happen on this cycle, but it's
6 going to require some ongoing effort to get some
7 individuals to come out and to share their
8 experiences.

9 We have heard a range of perspectives.
10 We've heard very positive supportive experiences that
11 people have had and we've also heard the opposite.
12 But I think the town hall is an opportunity, whether
13 you have a positive or negative view, to learn about
14 the Reform process and to get involved and to support
15 it because ultimately the success and implementing
16 the Agreement is a success for everybody. And I'm
17 hoping that that's the takeaway for everyone who
18 participates.

19 Finally, Your Honor, I do want to commend
20 the civilian interaction committee for Fajardo
21 because they were not on the original list of six
22 locations where they were going to have these. And
23 it was through their advocacy that we added, I
24 believe, a seventh town hall this year on Saturday at
25 a time and place that was convenient for them to

1 participate. And so just another example of how the
2 community's had an impact in this.

3 THE COURT: And the amicus from the Fajardo
4 from the community leaders he was there. He's the --
5 what's his name?

6 MR. CASTELLANOS-BAYOUTH: Licenciado Vega.
7 And he helps a lot.

8 THE COURT: Okay, well, thank you.

9 Let me hear from Mr. Torres. I assume you
10 echo Mr. Saucedo's comments. I did see the
11 photographs and everybody looked happy there.

12 MR. TORRES-ORTÍZ: Yes, Your Honor. We
13 agree with the comments of the U.S. DOJ and also with
14 Attorney Castellanos'. I wasn't thrilled that it was
15 on a Saturday, but I was glad that we went there
16 because especially the one in Fajardo was really
17 productive. And one thing we took out of it was that
18 the area commander for that town that we were
19 visiting needs to be prepared and the area commander
20 from Fajardo was really prepared and really informed
21 the public on all the issues that they were talking
22 about that day. And we're looking forward on the
23 next town hall meeting and having the area commander
24 have that same productive meeting.

25 THE COURT: Thank you. And let me just

1 comment on this. I know the police commissioner is
2 here, so is Mr. Orona, but if at any point at the
3 remaining town halls you could do a cameo appearance
4 and you can arrange -- it could be on a surprise
5 basis and just show up and perhaps be the first
6 speaker if you have to leave or if you're able to
7 stay, you'll probably get some very good input. And
8 obviously that's a court proceedings and we'll take
9 any measures to adequately accommodate you. Same, my
10 invitation extended to Secretary Pesquera because I
11 think so far everything's. One of the things --

12 MR. TORRES-ORTÍZ: Your Honor, if I may.

13 THE COURT: Yes Mr. Torres.

14 MR. TORRES-ORTÍZ: Police Commissioner Henry
15 Escalera was also in Ponce and I would like to
16 appreciate his presence.

17 THE COURT: Thank you very much.

18 Let me say this, the whole agenda, the
19 matters that have been discussed, I know members of
20 the media are here. And these are matters that are
21 ongoing, they are subject to the Court's evaluation
22 or rulings, so technically they can't be commented
23 on. But as to the town hall meetings, once we're
24 done, the Monitor or Mr. Castellanos they have leave
25 if you want to ask them any questions. Again,

1 there's no dispute about anything pertaining to the
2 town hall meetings, how they're set, so if you have
3 any questions about those, member of the media, as to
4 the town halls please feel free to ask them.

5 Okay, we have three brief remaining matters.
6 No. 10 is the compliance -- we should be done in
7 about 15 or 20 minutes -- Compliance Methodology For
8 the Period Following the Capacity-Building Period.
9 Marcos Soler, Deputy TCA, your turn. Short, sweet,
10 to the point.

11 DEPUTY TCA MARCOS SOLER: Yes. Direct and
12 to the point, Your Honor, as you indicated, we will
13 be introducing on August 30th the methodology. What
14 we are trying to do is very simple. As you know,
15 Article -- Requirement 294 of the Agreement requires
16 for us to be able to measure full and effective
17 compliance.

18 In order to do that we have two different
19 ways to proceed: One way is certainly to determine
20 compliance with all the requirements of the Agreement
21 under 245. That means to evaluate that all the
22 policies are in place and all the trainings are in
23 place and in practice these things are implemented
24 both from a qualitative and a quantitative
25 perspective. The other option, Your Honor, is to

1 measure outcomes which are determined in Article 243.
2 And also Article 246 gives the opportunity for the
3 TCA to recommend additional outcomes that might be
4 appropriate.

5 So the way to explain what we're trying to
6 do is, for instance, we take Requirement 38 of the
7 Agreement about requests for medical services in case
8 of injury to people who are arrested. And what we
9 are trying to do is not only to look at compliance in
10 terms of policy, whether there's a policy, whether
11 there's training, how this is done in practice, but
12 what we are trying to do is also to develop outcome
13 indicators that will connect with the main idea.

14 What is the main idea? Whether the number
15 of people who are -- who receive -- who suffer
16 injuries are treated appropriately. And in order to
17 do that we conduct that to all the other parts of the
18 Agreement. Requirement 68 talks about supervisors
19 and the role of supervisors. Article --
20 Requirement 148 talks about how in case of injuries
21 how they should be captured in the Early Intervention
22 System or other parts of the Agreement.

23 The idea is in all cases to have a
24 comprehensive analysis by which we can measure the
25 progress or lack of progress that the Commonwealth is

1 making in terms of compliance. Whether, again, by
2 looking at compliance with a specific requirement or
3 by the intended outcome and effect that we think is
4 part of the Agreement.

5 THE COURT: Okay, thank you.

6 Mr. Saucedo any brief comments as to this or
7 Mr. Torres?

8 MR. SAUCEDO: Your Honor, very briefly, the
9 compliance monitoring methodology is going to begin
10 on October 8, 2018 once the capacity-building period
11 ends. And, Your Honor, we don't always have
12 capacity-building periods in these cases --

13 THE COURT: I believe this is the first one.

14 MR. SAUCEDO: Yes, Your Honor. And, you
15 know, I've been doing institutional reform cases for
16 about 17 years and many administrators and
17 commissioners and police chiefs always talk about the
18 difficulty of reforming their agency while they're
19 having to operate. You can't just hit the pause
20 button for a police department and say we're going to
21 stop doing that while we fix the systems. And so
22 many of them have talked about driving the car while
23 it's getting all the work done.

24 Essentially what we've done is we've allowed
25 the Commonwealth -- we've hit the pause button on

1 compliance monitoring while the Commonwealth builds
2 the system. So they've had four years now to make
3 investments and training and equipment and the
4 facilities, information systems, but that period will
5 come to a close on October 7th. At that point the
6 focus of the TCA will shift from one of providing
7 primarily technical assistance to build these systems
8 to one more of determining compliance with the
9 Agreement.

10 So the methodology that Mr. Soler --
11 Dr. Soler spoke about is very important. There
12 should be no mystery about how the Commonwealth's
13 compliance will be measured in terms of the
14 Agreement. And so that methodology is important.
15 The parties will have an opportunity to review it and
16 I think our timing here is to have that ready by
17 mid-September --

18 TCA ARNALDO CLAUDIO: That's correct.

19 MR. SAUCEDO: -- for use. So we -- you
20 know, again, the main purpose of this
21 capacity-building period was to put the police bureau
22 in the best possible position to successfully
23 implement the Agreement. And so we are where we are
24 when it comes to October 7th and we will continue to
25 support this effort. But it's time now to start

1 looking at the results and whether the policies and
2 training are being put into practice.

3 THE COURT: Okay. And so we'll wait for
4 that methodology. Aside from that -- and obviously
5 that is not something the Monitor right now looks
6 into. Hopefully I will have no noncompliance. I
7 know there's going to be instances, sometimes there's
8 going to be findings. Let me ask, from the U.S.
9 DOJ's experience in these cases, let's assume, let's
10 take for example the canine unit just to -- let's
11 assume there is noncompliance and that is continued,
12 there is a pattern, what are the actions? I guess
13 the U.S. DOJ would move for the appropriate remedy if
14 that's the situation, correct, as in other
15 jurisdictions?

16 MR. SAUCEDO: Well, Your Honor, the role of
17 the United States in this case is to enforce the
18 Agreement. And it's not just an agreement between
19 the parties and two governments, it's Your Honor's
20 orders, so that opens up a number of different
21 options that are available.

22 Obviously we all want to see the police
23 bureau succeed. We don't want this to take decades
24 like other institutional reform cases have taken. We
25 project ten years of capacity-building -- excuse me,

1 of implementation of this Agreement. But there are a
2 range of options that are available when we are a
3 talking about a violation of a Court order. They
4 could include contempt, motions for specific
5 enforcement --

6 THE COURT: Monetary, nonmonetary.

7 MR. SAUCEDO: Yes, Your Honor. Your Honor,
8 there have been other cases where they have been able
9 to build hospitals based on all the contempt fines
10 that have been levied. We tried to avoid that
11 situation by --

12 THE COURT: It's not mentioned in the
13 Agreement so if there's any noncompliance it would be
14 up to the Court to set a method for -- you know, once
15 it's reported to the Court it's basically U.S. DOJ,
16 Judge, you give the appropriate remedy or the
17 appropriate --

18 MR. SAUCEDO: Yes, Your Honor. The idea of
19 having the capacity-building period was for the
20 Commonwealth to make these investments up-front.

21 THE COURT: It would put the Commonwealth in
22 a better position not to fall in these pitfalls.

23 MR. SAUCEDO: That's correct.

24 THE COURT: So, again, at this time that has
25 not happened and we will deal with it. But I hope

1 that, again, that this period has been as effective
2 as possible. I remember *Morales-Feliciano* because I
3 worked for Judge Pérez-Giménez. That went
4 immediately to the injunction stage and fines and
5 fines, no time was given to remedy.

6 Let me say this also. The Monitor now will
7 be in a monitoring phase, but if the Monitor in his
8 monitoring efforts sees that something is wrong but
9 can be readily remedied, of course he's got the
10 experience of capacity-building; he can always say,
11 Well, you know, or recommend to the Court this should
12 not be the basis of sanctions, this is something that
13 can be cured in a very short period, this is how to
14 do it. And I think the government is also willing to
15 assist in that, am I correct?

16 MR. SAUCEDO: Yes, Your Honor. And it's in
17 the Agreement that in every single monitoring report
18 from the TCA, the TCA is required to submit
19 recommendations for areas that they find in
20 noncompliance. So that obligation is ongoing and
21 that commitment to help the Commonwealth is always
22 there. But the focus is going to shift from doing
23 primarily technical assistance to one where we're
24 going to be measuring for results and implementation.

25 THE COURT: Let me hear from Mr. Torres and

1 then we have one more item. It's really 11 and 12,
2 but Mr. Saucedo can address both together. Okay,
3 Mr. Torres.

4 MR. TORRES-ORTÍZ: Yes, Your Honor. We look
5 forward on reviewing the methodology from Dr. Soler.
6 I think it's important that once the compliance
7 period starts that we all know what the rules of the
8 game is so that everybody is aware and knows, you
9 know, what they need to do in order to achieve
10 compliance. So we look forward on reviewing the
11 methodology.

12 THE COURT: And let me say this, my
13 philosophy is I know at some point we're going to
14 come and there is going to be a finding this has not
15 occurred. I think the most important thing is that
16 there has to be a will and a willingness to comply
17 with everything. Sometimes -- if it's a failure
18 because everybody has done everything possible and
19 tried diligently, that, again, is going to be looked
20 upon favorably by the Court versus slothfulness or
21 just simply not complying or my giving another
22 deadline and nothing happening.

23 My philosophy is help me help you. I know
24 if there is noncompliance there is a plethora of
25 sanctions but, again, what I was taught when I became

1 a judge, if everybody's doing his best, you start at
2 the lowest level, you don't have to start immediately
3 by going up to the worst alternative. But, again, it
4 takes everybody -- you know, everybody has to be
5 onboard to help move this along.

6 Now, the last two issues, and Mr. Saucedo is
7 going to inform these, is the status of Paragraphs 56
8 and 57 regarding crisis intervention and an update on
9 the Commonwealth extension request under Paragraph
10 239. So I'll hear from Mr. Saucedo. If the parties
11 need some additional time to discuss those additional
12 requests you can request that time, but time is
13 running out.

14 MR. SAUCEDO: Yes, Your Honor. And being
15 cognizant of the time I will be brief in saying that
16 Item No. 11 regarding Paragraphs 56 and 57 those deal
17 with crises intervention and having a specialized
18 response by the police bureau when they're in
19 interacting with people who are in mental health
20 crises.

21 There are two requirements, two main
22 requirements, in Paragraph 56 and that is that the
23 Commonwealth has agreed to train every single officer
24 on basic behavior health. This is understanding what
25 mental health is, what mental illness is, what the

1 symptoms are and how you could recognize it. We're
2 not training officers to be psychologists. They're
3 not going to have to assess and evaluate individuals
4 in the field, but as part of their ongoing threat
5 assessment it's important that they understand what
6 mental health is and what it isn't.

7 There are many myths out there that people
8 with mental illness are more violent than people
9 without it. And that's a myth. And this training is
10 geared or should be geared to that.

11 The second piece of Paragraph -- yes.

12 THE COURT: Let me just before you go to the
13 second piece I note that in the conference we held I
14 believe it was in Ponce about two years ago, the
15 Monitor in the health reform case did depose, and
16 that was one of the issues that was discussed and I
17 think was very important. I know there is a -- I
18 think the model to follow for this is in Oregon,
19 Portland because there is a consent decree there and
20 it's based on mental health. Police officers see
21 somebody who is schizophrenic and they don't even
22 have the slightest idea how to approach it, and they
23 will arrest him or Taser him, or sometimes what was
24 happening there is they would be shot. And I think
25 the training is very important. I think also this

1 goes to community policing because officers who are
2 in the community will know this is -- in the old days
3 you'd have your local drunk and everybody knows the
4 guy as an alcoholic. His family lives there, but he
5 likes sleeping on the street and he gets rowdy all
6 the time. He's not a criminal, it's just that he's
7 mentally ill. And that's that detection and
8 recognizing -- you know, distinguishing that from
9 ordinary criminal acts. Am I correct, Mr. Saucedo?

10 MR. SAUCEDO: Yes, Your Honor.

11 THE COURT: Well, let me go as to the second
12 item. Something I want to comment also is that --
13 and I know obviously to the extent possible, but I
14 think it is something that perhaps not this year but
15 early next year as to that prong if the parties think
16 it's reasonable and it would be helpful for training,
17 at some point I can probably talk to my colleague in
18 Oregon, in Portland, who is handling that case
19 perhaps when he has a status hearing or to meet with
20 the other police officers there who have been
21 trained.

22 I know Mr. Claudio and I originally in this
23 case went to New Orleans to get some ideas and that's
24 how we started having these status public hearings.
25 But anything that helps, I'll be as creative as

1 possible and I'll try to help. Or it might be
2 feasible to bring some of those individuals here.
3 You know, it might be easier to bring three officers
4 here to help train and to share their experiences for
5 a day or two, but just keep that in mind because I
6 think it will be helpful.

7 MR. SAUCEDO: Yes, Your Honor. And the
8 second piece to Paragraph 56 is the creation of
9 crises intervention teams. This is a model that's
10 existed for about 30 years. It started in Memphis,
11 Tennessee and it was a collaboration among NAMI, the
12 national association for people with mental illness
13 who were advocates for people in that community; the
14 Memphis Police Department; the University of Memphis;
15 and the local medical school.

16 This recognized that addressing people with
17 mental illness who are in crises is not -- doesn't
18 require only a law enforcement response, it requires
19 a coordinated response. And so the parties agreed
20 that as part of Paragraph 56 we would have these
21 teams. These are teams of 40 -- of specialized first
22 responders who are trained in a basic curriculum of
23 about 40 hours. Having a team helps build experience
24 and familiarity. As Your Honor said, sometimes these
25 are individuals that you run into often or that are

1 subjects of calls for service often. And by having a
2 dedicated team of first responders you're able to
3 develop an experience working with this population
4 and to improve and hone your skills.

5 The last feature of these teams is that it
6 expands options. You're no longer having to arrest
7 or involuntarily commit an individual. There are a
8 range of intermediate options that could be used.
9 And this is, again, a model that depends heavily on
10 partnerships that are built with the police
11 department and other government agencies and
12 community partners.

13 And so there's further discussions that are
14 needed on the creation of 56 -- excuse me of the
15 crises intervention teams. We hope to have some
16 resolutions on those in the coming weeks and
17 definitely before the beginning of the compliance
18 period that starts in October 7th.

19 THE COURT: Let me have Mr. Torres respond
20 to that Item 11 and then we'll have Mr. Saucedo on
21 the extension issue.

22 MR. TORRES-ORTÍZ: Yes, Your Honor. This
23 past week we had several meetings to discuss these
24 two paragraphs. And the police reform office is
25 currently working on the policy and we're going to

1 prepare a proposal for both the TCA and U.S. DOJ.

2 THE COURT: Okay, thank you. Then let me
3 hear Mr. Saucedo as to Item No. 12 which is the last
4 item.

5 MR. SAUCEDO: Yes, Your Honor. The
6 Commonwealth -- as we all have talked about here
7 today, the end of the capacity-building period is
8 October 7, 2018. Your Honor, did ask the parties to
9 get together and identify which activities of the
10 action plans needed more time as a result of
11 Hurricane Maria and the parties have done that.
12 They've submitted two motions with some extensions
13 related to those.

14 The Commonwealth asked to add some other
15 activities to that list. We were able to
16 successfully whittle down that list from about 53
17 items, there are now currently about 34, 35. These
18 are extensions of activities that were to be
19 completed during the capacity-building period but
20 because of the hurricane and other operational issues
21 they need to extend into the compliance monitoring
22 phase. When you talk about 34 compared to the
23 200-plus activities, this is a small number of --

24 THE COURT: Less than ten percent.

25 MR. SAUCEDO: Yes, Your Honor. Less than

1 two percent of the activities the Commonwealth had
2 agreed to implement during the capacity-building
3 period. It's asking and it's proposed to extend
4 about 34 of those. And so the parties will be
5 working to try and reach a final resolution. We
6 expect to be able to submit a proposed motion by the
7 end of the month so that there's clarity on the
8 Monitor's -- on the TCA's team as far as what is
9 going to be extended into the compliance phase.

10 THE COURT: Let me say this, I won't be able
11 available for this. I hope you're able all to agree.
12 I do this in criminal cases. Agree and, you know,
13 usually I follow the recommendations. If you have an
14 impasse between one or two items, use the Monitor or
15 perhaps a mediator and try to reach a happy medium.

16 But, again, I do want to recognize that from
17 a much lower percentage to having -- I think there's
18 237 policies and 34 still need the extension,
19 that's -- I think it's -- kudos to the Commonwealth
20 within that compliance period. This is very
21 favorable. And, again, if not for Maria, I'm sure we
22 would be talking about one or two small areas or
23 probably zero.

24 Anything else, Mr. Torres, on this matter?

25 MR. TORRES-ORTÍZ: No, Your Honor, we look

1 forward on finalizing the discussions on the
2 extension of times.

3 THE COURT: Okay. So then Item 13 which I
4 added, just some closing thoughts. And then what
5 I'll do is Mr. Orona and Commissioner Escalera will
6 have an opportunity to address the Court if there's
7 anything you want to add.

8 But let me say, something that I recently
9 saw in the media, the governor is aware of the exodus
10 of police officers. And particularly I would add to
11 that it's happening in other agencies. I think it's
12 worrisome. The Puerto Rico Department of Justice is
13 just another example. Prosecutors who -- nobody ever
14 left the prosecutor's job unless it was something
15 amazing their leaving, but there are prosecutors
16 actually leaving. There's attorneys from federal
17 litigation that that division -- and Ms. Peñagarícano
18 can account.

19 When I was at the Justice Department, the
20 Solicitor General's office had almost 40 attorneys,
21 now they're down to like 12. Federal litigation has
22 maybe five or six. And everybody's working more and
23 more and is getting drained. So I think that
24 recruitment or bank of talent is important, so kudos
25 to that. I think what is important is methods to be

1 able to hire officers because of the -- you know, we
2 did have some younger officers but the general
3 population of the police force is getting older.

4 And I think it's important perhaps for the
5 local government, the Puerto Rico government, to look
6 perhaps to federal funds and other sources of moneys.
7 I think that's very important. I think the bank of
8 talent is a first step. If I can put my two cents'
9 worth, I would extend that to the justice department
10 along with the Puerto Rico Police. But, again, it's
11 something we can revisit later on, but I think it's
12 something -- at least it's a start.

13 Now, as to future status conferences, I will
14 probably hold another status conference it won't
15 probably be as long as this but since in October we
16 start the monitoring period so I will be looking for
17 a time in November -- again, I have the whole month
18 of September in a trial so I will look for a time in
19 November.

20 And God willing and time permitting towards
21 the end of the year I do want to visit the canine
22 unit. We'll also coordinate it with Mr. Claudio
23 perhaps to visit one of the other police precincts I
24 have not visited. I know I've been to Ponce, I've
25 been to other areas, but perhaps do one or two visits

1 in one day perhaps the same day as the canine visit
2 and equestrian visit since they are close by.

3 And something that I left that we were not
4 able to do in 2016, I do want to visit at some point
5 the officers in Vieques and Culebra. This is overdue
6 from my part along with him. And obviously this
7 would be something that we arrange so the
8 commissioner could come along and Mr. Saucedo, but I
9 think those two island municipalities deserve an
10 important visit.

11 The reason we did not do that the last time
12 was because of a fiscal crises and using --
13 Commissioner Caldero had or Secretary -- well,
14 whatever the title was before, I forget --
15 Superintendent Caldero had offered the use of the
16 FURA helicopters for us to transport there but when I
17 realized what the cost of fuel was it was just
18 unconscionable. So I will probably be using the
19 ferry or some other method. But we will be looking
20 into that. So that can be sometime in November or
21 early mid-December, but those are kind of my plans.
22 And I will have to find the time, but I will. I
23 stand committed to the Reform.

24 Something that I did discuss this with the
25 Monitor and the chief judge for the Court of Appeals,

1 when I became chief judge here it was, I have so much
2 administratively work, how am I going to do this?
3 And he has offered to help or to suggest that another
4 judge step in. But I feel a commitment to the
5 Reform. If somebody else gets in -- and a new judge
6 will probably get appointed soon. I just can't give
7 this whole case to somebody who's going to have to
8 take two or three years to learn.

9 So, again, I think the town hall meetings
10 will help, the parties continuing to meet will help.
11 And hopefully -- I will continue at least every two
12 months or quarterly to meet with all of you for
13 updates so, that's my perspective.

14 Let me ask Mr. Orona, Attorney Orona, or the
15 commissioner if there's anything any of you want to
16 say. If not, we'll conclude.

17 MR. ORONA-AMILIVIA: Your Honor, I think
18 that we, as the Commonwealth, we're really looking
19 forward to this next step and it's the compliance
20 period. There's some things that need to be
21 finalized, but as something that started in 2010 on
22 our part and I think that even there was a four-year
23 hiatus I worked with, on the government's part, with
24 the beginnings of what became the Agreement and the
25 Reform process.

1 I think that there has been a lot of
2 improvement in the police reform. And I think that
3 that is important to know that, and also to make sure
4 that of course there's a lot still of road ahead and
5 a lot of areas that will still need monitoring and
6 will still need additional fine-tuning, but I think
7 that this is a good turning point and we're looking
8 forward to this new step and new stage in the Reform
9 process at the police department.

10 THE COURT: Okay. Commissioner, is there
11 anything you wish to state for the record?

12 COMMISSIONER ESCALERA: No.

13 MR. TORRES-ORTÍZ: Your Honor, on behalf of
14 the Commonwealth we believe we have talked
15 extensively of everything.

16 THE COURT: We've been almost four hours
17 here.

18 MR. TORRES-ORTÍZ: Yes.

19 THE COURT: I think it's been worthwhile.
20 This is the sort of hearing whenever I'm going to
21 accommodate myself I will have. At some point I'll
22 have a one-day hearing, but I think -- you know, I
23 thank everybody for being here, and I think the
24 exchange of ideas has been very valuable.

25 Mr. Claudio, any final thoughts, or Mr.

1 Saucedo anything else?

2 MR. SAUCEDO: No, Your Honor, nothing
3 further from the United States.

4 THE COURT: And Mr. Claudio briefly.

5 TCA ARNALDO CLAUDIO: Just one more thing.

6 We have agreed with the PRPB that as soon as we get
7 the methodology we will come back -- and this was an
8 idea of Colonel Vega -- that we're going to go ahead
9 and brief the commissioner, we're going to brief all
10 the personnel specifically in the area of
11 administrative management and hope to accomplish this
12 within the compliance period.

13 THE COURT: Well, having said that, court is
14 adjourned until tomorrow at 10:00 a.m.

15 THE COURTROOM DEPUTY: All rise.

16 (The Court exits the room.)

17 (Public hearing concluded at 5:48 p.m.)

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1 UNITED STATES DISTRICT COURT)
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10 CERTIFICATE
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I, EVILYS E. CARRIÓN-ESQUILÍN, hereby
certify that the proceedings and evidence are
contained fully and accurately, to the best of my
ability, in the notes recorded stenographically by
me, at the public hearing in the above matter; and
that the foregoing is a true and accurate transcript
of the same.

/s/ Evilys E. Carrión-Esquilín
EVILYS E. CARRIÓN-ESQUILÍN, RPR
Official Court Reporter
United States District Court
Federal Building, Room 200
San Juan, Puerto Rico 00918
787-772-3377